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REGISTER

RULES
OF GOVERNMENTAL
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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
Issue 15	April 2	April 13	Issue 42	October 9*	October 19
Issue 16	April 9	April 20	Issue 43	October 15	October 26
Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Proposed Action:
310.280 Amend
APPENDIX A, Table AA Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved: In Section 310.280, Designated Rate, a Senior Public Service Administrator position (37015-25-61-140-80-01) is being added with the annual salary of \$76,668 at the request of the Department of Revenue. In Section 310. Appendix A, Table AA, NR-916 (Department of Natural Resources, Teamsters), the minimum salaries are being upgraded by 2% for all titles, effective January 16, 2001.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain any incorporations by reference? No
- 9) Are there any proposed amendments pending to this Part? Yes
- | Section Numbers | Proposed Action | Ill. Reg. Citation |
|----------------------|-----------------|--------------------|
| 310.280 | Amend | 24 Ill. Reg. 14844 |
| 310.280 | Amend | 24 Ill. Reg. 15486 |
| APPENDIX A, Table AB | Amend | 24 Ill. Reg. 16151 |
| 310.290 | Amend | 24 Ill. Reg. 17384 |
| 310.280 | Amend | 25 Ill. Reg. 1037 |
- 10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310

PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2001
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310

PAY PLAN

SUBPART A: NARRATIVE

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 2001
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2001
APPENDIX C	Medical Administrator Rates for Fiscal Year 2001
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2001
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2001

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18954, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 23, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Community Affairs

Economic Development Representative II

(Pos. No. 12932-42-35-110-10-02) Annual Salary 54,048

Private Secretary II

(Pos. No. 34202-42-00-000-01-02) Annual Salary 48,492

Public Information Officer IV

(Pos. No. 37004-42-00-005-10-01) Annual Salary 64,932

Public Service Administrator

(Pos. No. 37015-42-35-140-20-01) Annual Salary 75,588

Public Service Administrator

(Pos. No. 37015-42-35-140-20-01) Annual Salary 82,116

Department of Human Services

Medical Administrator I, Option D

(Pos. No. 26401-10-79-006-00-21) Annual Salary 142,368

Public Service Administrator

(Pos. No. 37015-10-23-100-30-01) Annual Salary 73,632

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Senior Public Service Administrator
(Pos. No. 40070-10-65-000-00-01)

Annual Salary
105,475

Senior Public Service Administrator
(Pos. No. 40070-10-81-920-00-21)

Annual Salary
105,480

Illinois State and Local Labor Relations Board

Private Secretary II

(Pos. No. 34202-50-19-000-00-01)

Annual Salary
51,900

Department of Natural Resources

Administrative Assistant II

(Pos. No. 00502-12-30-000-20-01)

Annual Salary
50,520

Department of Revenue

Senior Public Service Administrator

(Pos. No. 37015-25-61-140-80-01)

Annual Salary
76,668

Department of State Police

Senior Public Service Administrator

(Pos. No. 40070-21-10-000-00-01)

Annual Salary
109,358

Source: Amended at 25 Ill. Reg. _____, effective _____.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310.TABLE AA NR-916 (Department of Natural Resources, Teamsters)

Effective:--July-17-2000

	Minimum Salary	Maximum Salary
Cartographer-III	2705	5205
Civil-Engineer-I	2635	4394
Civil-Engineer-II	2810	5044
Civil-Engineer-III	3095	5647
Civil-Engineer-Trainee	2475	3734
Engineering-Technician-I	1405	2969
Engineering-Technician-II	1810	3557
Engineering-Technician-III	2220	4243
Engineering-Technician-IV	2325	5507
Technical-Manager-I	2005	4004

Effective: January 16, 2001

	Minimum Salary	Maximum Salary
Cartographer III	2860	5210
Civil Engineer I	2785	4395
Civil Engineer II	2970	5045
Civil Engineer III	3270	5650
Civil Engineer Trainee	2620	3735
Engineering Technician I	1570	2970
Engineering Technician II	1915	3560
Engineering Technician III	2350	4245
Engineering Technician IV	2880	5510
Technical Manager I	2205	4005

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 Ill. Adm. Code 300
- 3) Section Numbers:
APPENDIX B Proposed Action:
Amend
- 4) Statutory Authority: 325 ILCS 5
- 5) A Complete Description of the Subjects and Issues Involved: The Department is amending Appendix B, Child Abuse and Neglect Allegations, of Part 300 in order to implement changes recommended by its Best Practice Initiative Subcommittee on Child Abuse and Neglect Investigations. While most of the recommendations of the Initiative are procedural in nature and deal with the investigative process, changes to the description and definitions of the allegations themselves were seen as necessary to support the broader effort. These amendments to the allegations seek to more accurately and precisely clarify and define the allegations and therefore provide better protection for alleged child victims of abuse and neglect. In at least one instance it was deemed necessary to create a new allegation, that of "Substantial Risk of Sexual Injury". Professionals and experts in the field of medicine, psychology, and social work were consulted on the technical and scientific aspects of the definitions and terms used in the allegations.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TTY: (217) 524-3715
 E-mail: cfpolicy@idcfs.state.il.us
 Facsimile: (217) 557-0692

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: These rules do not affect small businesses.

13) Regulatory agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begin on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 300

REPORTS OF CHILD ABUSE AND NEGLECT

Section	Purpose
300.10	Definitions
300.20	Reporting Child Abuse or Neglect to the Department
300.30	Content of Child Abuse or Neglect Reports
300.40	Transmittal of Child Abuse or Neglect Reports
300.50	Special Types of Reports (Recodified)
300.60	Referrals to the Local Law Enforcement Agency and State's Attorney
300.70	Delegation of the Investigation
300.80	Time Frames for the Investigation
300.90	Initial Investigation
300.100	The Formal Investigative Process
300.110	Taking Children into Temporary Protective Custody
300.120	Notices Whether Child Abuse or Neglect Occurred
300.130	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.140	Referral for Other Services
300.150	Special Types of Reports
300.160	Child Death Review Teams
300.170	

APPENDIX A Acknowledgement of Mandated Reporter Status

APPENDIX B Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendments at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

Skull fracture means a broken bone of the skull.

Subdural HematomaHematoma

Hematoma means a swelling or mass of blood (usually clotted) confined to an organ, tissue or space and caused by a break in a blood vessel.

Subdural means beneath the dura mater (the outer membrane covering the spinal cord and brain).

A subdural hematoma is located beneath the membrane covering the brain and is usually the result of head injuries or the shaking of a small child or infant. It may result in the loss of consciousness, seizures, mental or physical damage, or death.

Shaken Baby Syndrome (Whiplash Shaken Infant Syndrome (WSIS))

Shaking of an infant causes stretching and tearing of blood vessels in the brain causing subdural hematoma, bleeding in the brain and retinal hemorrhage.

Verification of head injuries ~~brain--damage--or--skull fracture~~ must come from a physician, preferably a neurosurgeon or radiologist.

3/53

Subdural-Hematoma-(Priority-I)Hematoma

A-swelling-or-mass-of-blood-(usually-clotted)--confined--to an--organ--tissue-or-space-and-caused-by-a-break-in-a-blood vessel.

Subdural

Beneath-the-dura-mater-(the--outer--membrane---covering--the spinal-cord-and-brain)-

A---subdural-hematoma--is--located--beneath--the--membrane covering-the-brain--and--is--usually--the--result--of--head injuries-or-the-shaking-of-a-small-child-or-infant---it-may

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

result--in--loss--of--consciousness--seizures--mental--or physical-damage--or-death.

Verification---of---subdural--hematoma--must--come--from--a physician.

Internal Injuries (Priority-I)

An internal injury is an injury which is not visible from the outside, e.g. an injury to the organs occupying the thoracic or abdominal cavities. Such injury may result from a direct blow or a penetrating injury. A person so injured may be pale, cold, perspiring freely, have an anxious expression, or may seem semicomatose. Pain is usually intense at first, and may continue or gradually diminish as patient grows worse.

Verification of internal injuries must come from a physician.

5/55

Burns/Scalding-(Priority-II)Burns

Tissue injury resulting from excessive exposure to thermal, chemical, electrical or radioactive agents. The effects vary according to the type, duration and intensity of the agent and the part of the body involved. Burns are usually classified as:

- First Degree (Partial Thickness)

Superficial burns, damage being limited to the outer layer of the epidermis (skin). Characterized by scorching ~~Scorching~~ or painful redness of the skin.

- Second Degree (Partial Thickness)

The damage extends through the outer layer of the skin into the inner layers (dermis). Blistering will be present within 24 hours.

- Third Degree (Full Thickness)

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

Burns in which both layers of the skin (epidermis and dermis) are destroyed with damage extending into underlying tissues, which may be charred or coagulated.

- Fourth Degree (Full Thickness)

Burns extend beyond skin and underlying tissues into bone, joints and muscles.

Scalding

A burn to the skin or flesh caused by moist heat and hot vapors, as steam.

All emersion burns (scalds) must be confirmed by a physician unless the alleged perpetrator has admitted to scalding the child.

6/56 Poison/Noxious Substances (Priority-III)

Poison

Any substance, other than mood altering chemicals or alcohol, taken into the body by ingestion, inhalation, injection, or absorption that interferes with normal physiological functions. (Virtually any substance can be poisonous if consumed in sufficient quantity; therefore, the term poison more often implies an excessive amount rather than the existence of a specific substance a specific-group-of-substances.)

Noxious

Harmful, injurious, not wholesome.

Verification must come from a physician or by a direct admission from the alleged perpetrator.

7/57

Wounds (Priority-I)

A gunshot or stabbing injury.

Verification must come from a physician, a law enforcement officer or by a direct admission from the alleged perpetrator.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

9/59

Bone Fractures (Priority-II)

A fracture is a broken bone. There are ten types of fractures, the most common being:

Metaphyseal - Epiphyseal Fractures

Fractures at the end of bones. They are commonly described as corner fractures, chipped fractures or bucket-handle fractures.

Diaphyseal Fractures

Diaphyseal fractures are located in the bone shaft. Fractures in the shaft of long bones of the extremities are spiral (oblique) or transverse. Spiral fracture is caused by twisting or rotational force. Transverse fracture results from a direct blow or bending force.

Chip Fracture

A small piece of bone is flaked from the major part of the bone.

Simple Fracture

The bone is broken but there is no external wound.

Complicated Fractures

Compound

The bone is broken and there is an external wound leading down to the site of fracture or fragments of bone protrude through the skin.

Comminuted

The bone is broken or splintered into pieces.

Spiral

Twisting causes the line of the fracture to encircle the bone in the form of a spiral.

Verification must come from a physician or radiologist.

10/60

Substantial Risk of Physical Injury/
Environment Injurious to Health and Welfare

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

Substantial risk of physical injury means that the parent, caregiver, immediate family member aged 16 or over, other person residing in the home aged 16 or over, or the parent's paramour has created a real and significant danger of physical injury that would likely cause disfigurement, death, or impairment of physical health or loss or impairment of bodily functions (abuse). This allegation of harm is to be used when the type or extent of harm is undefined but the total circumstances lead a reasonable person to believe that the child is in substantial risk of physical injury. This allegation of harm also includes incidents of violence or intimidation directed toward the child that have not yet resulted in injury or impairment but that clearly threaten such injury or impairment (abuse) or placing a child in an environment that is injurious to the child's health and welfare (neglect).

Examples of incidents or circumstances that place the child in substantial risk of physical injury include, but are not limited to, the following:

Incidents of Maltreatment

- choking the child (abuse).
- smothering the child (abuse).
- pulling the child's hair out (abuse).
- violently pushing or shoving the child into fixed or heavy objects (abuse).
- throwing or shaking a smaller child (abuse).
- other violent or intimidating acts directed toward the child that cause excessive pain or fear (abuse).
- situations that place a child at substantial risk of harm due to environmental issues in the home (neglect).

Circumstances

- domestic violence in the home when the child has been threatened and the threat is believable, as evidenced by a past history of violence or uncontrolled behavior (neglect).
- a perpetrator of child abuse who has been court ordered to remain out of the home returns home and has access to the abused child (abuse).
- an adult living in the home has a documented history of violence toward children.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

- the circumstances surrounding the death of one child provides reason to believe that another child is at real and significant danger of physical injury (neglect).
- parent/caretaker exposes child to environment that significantly affects the health and safety based on use, sale or manufacturing of illegal drugs or alcohol (neglect).
- parent's or caretaker's mental illness and behavior poses a significant danger to the child's health and safety (neglect). To indicate an allegation based on this factor, the investigator must rule out dependency as defined in the Juvenile Court Act as the presenting problem.
- parent has been adjudicated unfit by a court and the parent has not completed services that would remunerate the court finding.

Factors to be Considered

Whether there is a real and significant danger to justify taking a report is determined by the following factors:

- the child's age.
- the child's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap, particularly related to his or her ability to protect himself or herself.
- the severity of the occurrence.
- the frequency of the occurrence.
- the alleged perpetrator's physical, mental and/or emotional abilities, particularly related to his or her ability to control his or her actions.
- the dynamics of the relationship between the alleged perpetrator and the child.
- the alleged perpetrator's access to the child.
- the previous history of indicated abuse or neglect.
- the current stresses/crisis in the home.
- the presence of other supporting persons in the home.

11/61

Cuts, Bruises, and Welts, Abrasions
and Oral Injuries (Priority-ift)

Cut

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

An opening, incision or break in the skin made by some external agent.

Bruise

An injury that which results in bleeding under withn the skin, where the skin is discolored but not broken. Also referred to as a contusion.

Welt

An elevation on the skin produced by a lash, blow, or allergic stimulus. The skin is not broken and the mark is reversible.

Abrasion

A scraping away of the skin.

Oral Injuries

Injuries to the child's mouth, including broken teeth.

Factors to be Considered

Not every cut, bruise, or welt constitutes an allegation of harm. The following factors should be considered when determining whether an injury which resulted in cuts, bruises or welts constitute an allegation of harm:

- the child's age (children aged 6 and under are at a much greater risk of harm).
- child's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap, particularly as they relate to the child's ability to seek help protect--himself--or herself.
- pattern or chronicity of similar incidents.
- severity of the cuts, bruises, or welts, or abrasions (size, number, depth, extent of discoloration).
- location of the cuts, bruises, or welts, or abrasions.
- whether an instrument was used on the child.
- previous history of indicated abuse or neglect.

12/62

Human Bites ~~(Priority-III)~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

A bruise, cut or indentation in the skin caused by seizing, piercing, or cutting the skin with human teeth.

13/63

Sprains/Dislocations ~~(Priority-III)~~

Sprain

Trauma to a joint that which causes pain and disability depending upon the degree of injury to ligaments and/or surrounding muscle tissue. In a severe sprain, ligaments and/or muscle tissue may be completely torn. The signs are rapid swelling, heat and disability, often discoloration and limitation of function.

Dislocation

The displacement of any part, especially the temporary displacement of a bone from its normal position in a joint. Types include:

Complicated

A dislocation associated with other major injuries.

Compound

Dislocation in which the joint is exposed to the external air.

Closed

A simple dislocation.

Complete

A dislocation which completely separates the surfaces of a joint.

Verification must come from a physician, registered nurse, licensed practical nurse or by a direct admission from the alleged perpetrator.

14

Tying/Close Confinement ~~(Priority-III)~~

Unreasonable restriction of a child's mobility, actions or physical functioning by tying the child to a fixed (or heavy) object, tying limbs together or forcing the child to remain in a closely confined area which restricts physical movement. Examples include, but are not limited to:

- locking a child in a closet or small room.
- tying one or more limbs to a bed, chair, or other object, except as authorized by a licensed physician.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

- tying a child's hands behind his or her back.
- putting a child in a cage.

15/65

Substance Misuse (Priority-II)

Option A

The consumption of a mood altering chemical capable of intoxication to the extent that it harmfully affects the child's health, behavior, motor coordination, judgment, or intellectual capability. Mood altering chemicals include cannabis (marijuana), hallucinogens, stimulants (including cocaine), sedatives (including alcohol and Valium), narcotics, or inhalants (abuse/neglect). Abuse occurs if the parent provides the substance to the child. Neglect occurs if the parent allows the use or fails to protect the child from consumption.

Option B

Fetal alcohol syndrome or drug withdrawal at birth caused by the mother's addiction to drugs is included in this definition and is considered child neglect (neglect). Also included-is

Option C

Any any amount of a controlled substance or a metabolite thereof, found in the blood, urine or meconium (newborn's first stool) of a newborn infant. A controlled substance is defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act [720 ILCS 570/102] (neglect). The presence of such substances shall not be considered as child neglect if the presence is due to medical treatment of the mother or infant.

NOTE: Methadone withdrawal or other withdrawal verified as under the auspices of a drug treatment program is not included under drug withdrawal at birth.

Examples of substance misuse include, but are not limited to:

- giving a minor (unless prescribed by a physician) any amount of heroin, giving a minor (unless prescribed by a physician) any amount of heroin, cocaine, morphine,

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ALLEGATION

DEFINITION

- peyote, LSD, PCP, pentazocine, or methaqualone or encouraging, insisting, or permitting a minor's consumption of the above substances.
- giving any mood altering substance, including alcohol or sedatives, unless prescribed by a physician, to an infant or toddler.
- encouraging, insisting or permitting a child who has not reached puberty to consume alcohol, drugs, or another mood altering substance on a regular or frequent basis.
- encouraging, insisting or permitting an adolescent to consume alcohol, drugs, or another mood altering substance on a daily basis.
- encouraging, insisting or permitting any minor to become intoxicated by alcohol, drugs, or another mood altering substance even if on an infrequent basis.

Factors to be Considered

The following factors should be considered when determining whether a child is involved in substance misuse:-

- age of the child.
- frequency of substance misuse.
- amount of substance consumption.
- whether the substance is illegal for general population use.
- degree of behavioral dysfunction, or physical impairment linked to substance misuse.
- the child's culture, particularly as it relates to use of alcohol in religious ceremonies or on special occasions.
- whether the parent or caregiver's attempts to control an older child's substance misuse or to seek help for the child's substance misuse were reasonable under the circumstances.
- whether the parent or caregiver knew or should have known of the child's substance misuse.

Torture (Priority-I)

Inflicting or subjecting the child to intense physical and/or mental pain, suffering, or agony that is either severe, repetitive, increased, or prolonged. Betiberately and/or-systematically-inflicting-unusual-or-cruel-treatment which-results-in-physical-or-mental-suffering.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

17/67

DEFINITION

Mental Injury and Emotional Impairment (Priority-III)

Injury to the intellectual, emotional or psychological development of a child as evidenced by observable and substantial impairment in the child's ability to function within a normal range of performance and behavior, with due regard to his or her culture.

Verification that a child has been mentally injured must come from a medical doctor, psychiatrist, registered psychologist, certified social worker, registered nurse with a specialty in mental illness, or professional employee of a community mental health agency.

18

Sexually Transmitted Diseases (Priority-II)

A disease which was acquired originally as a result of sexual penetration or sexual conduct with an individual who is afflicted. The diseases may include, but are not limited to:

- Acquired Immune Deficiency Syndrome (AIDS)
- AIDS Related Complex (ARC)
- Balanoposthitis
- Calymmatobacterium Granulomatis
- Chancroid
- Chlamydia Trachomatis
- Genital Candidiasis
- Genital Herpes
- Genital Warts
- Gonorrhea
- Granuloma Inguinale
- Haemophilus Ducreyi
- HIV Infection
- Lymphogranuloma Venereum
- Neisseria Gonorrhea
- Nonspecific Urethritis
- Proctitis
- Syphilis
- Chancroid
- Genital-Candidiasis
- Lymphogranuloma-Venereum
- Granuloma--inguinale
- Genital-Herpes
- Genital-Warts
- Balanoposthitis

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

- Proctitis
- Neisseria-Gonorrhea
- Chlamydia-Trachomatis
- Treponema Pallidum
- Haemophilus--Ducreyi
- Calymmatobacterium-Granulomatis
- Trichomonas Vaginalis (Symptomatic)
- AIDS

Sexual penetration is defined in the Illinois Criminal Sexual Assault Act as "any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration."

Sexual conduct is defined in the Act as "any intentional or knowing touching or fondling of the victim or the perpetrator, either directly or through clothing of the sex organs, anus or breast of the victim or the accused, or any part of the body of a child . . . for the purpose of sexual gratification or arousal of the victim or the accused."

Verification of sexually transmitted diseases must come from a medical source.

19

Sexual Penetration (Priority-I)

Any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person. This includes acts commonly known as oral sex (cunnilingus, fellatio), anal penetration, coition, coitus, and copulation.

20

Sexual Exploitation (Priority-II)

Sexual use of a child for sexual arousal, gratification, advantage, or profit. This includes but is not limited to:

- indecent solicitation of a child/explicit verbal enticement.
- child pornography.

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ALLEGATION #	DEFINITION
-	- exposing sexual organs to a child for the purpose of sexual arousal or gratification.
-	- forcing the child to watch sexual acts.
-	- self-masturbation in the child's presence.
NOTE:	Sexual penetration and molestation are excluded from this allegation. They are listed as separate allegations.

21 Sexual Molestation {priority-1}

Sexual conduct with a child when such contact, touching or interaction is used for arousal or gratification of sexual needs or desires. Examples include, but are not limited to:

- fondling.
- the alleged perpetrator inappropriately touching or pinching parts of the child's body generally associated with sexual activity.
- encouraging, forcing, or permitting the child to inappropriately touch parts of the alleged perpetrator's body normally generally associated with sexual activity.

22 Substantial Risk of Sexual Injury

Substantial Risk of Physical Injury {priority-1}

Substantial risk of sexual injury means that the parent, caregiver, immediate family member, other person residing in the home, or the parent's paramour has created a real and significant danger of sexual abuse, in that:

Option A

An indicated, registered, or convicted sex offender has significant access to children, and the extent/quality of supervision during contact is unknown or suspected to be deficient.

Option B

There are siblings or other children in the same household as the alleged victim, or offender, or a current allegation of sexual abuse.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION #	DEFINITION
Option C	Persistent, highly sexualized behavior or knowledge in a very young child (e.g., under the age of five chronologically or developmentally) that is grossly age inappropriate, and there is reasonable cause to believe that the most likely manner in which this behavior or knowledge was learned is in having been sexually abused.

Note: When accepting a report based on behavioral indicators, State Central Register staff must inform the reporter that the report cannot be indicated unless the victim makes a statement regarding specific sexual abuse or a forensic evaluation or independent consultation results in a clinical finding of sexual abuse.

Substantial risk of physical injury means that the parent, caregiver, immediate family member aged 16 or over, or other person residing in the home aged 16 or over, or the parent's paramour has created a real and significant danger of physical injury or sexual abuse to the child.

This allegation of harm is to be used when the type or extent of harm is undefined but the total circumstances lead a reasonable person to believe that the child is in substantial risk of physical injury or sexual abuse.

This allegation of harm also includes incidents of violence or intimidation directed toward the child which have not yet resulted in injury or impairment but which threaten such injury or impairment.

Examples of incidents or circumstances which place the child in substantial risk of physical injury include, but are not limited to, the following:

Incidents

- choking the child;
- smothering the child;
- pulling the child's hair out;
- violently pushing or shoving the child into a fixed or heavy object;
- throwing or shaking a smaller child;
- other violent or intimidating acts directed toward the child which cause excessive pain or fear.

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NOTICE OF PROPOSED AMENDMENTS

ALLEGATION

DEFINITION

Circumstances

- domestic violence in the home when the child has been threatened and the threat is believable as evidenced by a past history of violence or uncontrolled behavior.
- a perpetrator of child abuse who has been ordered to remain out of the home returns home and has access to the abused child.
- the non-accidental death of one child provides reason to believe that another child is at risk.
- past sexual abuse when confirmed by the victim provides reason to believe that another child is at risk.

Factors to be Considered

Whether there is a real and significant danger is determined by the following factors:

- the child's age (children aged 6 and under are at a much greater risk of harm);
- the child's medical condition, behaviorally, mentally, or emotionally; problems, developmental disability, or physical handicap; particularly related to his or her ability to protect himself or herself;
- the severity of the occurrence;
- the frequency of the occurrence;
- the alleged perpetrator's physical, mental, and/or emotional abilities; particularly related to his or her ability to control his or her actions;
- the dynamics of the relationship between the alleged perpetrator and the child;
- the alleged perpetrator's access to the child;
- the previous history of indicated abuse or neglect;
- the current stresses/crisis in the home;
- the presence of other supporting persons in the home.

Inadequate Supervision (Priority III)

The child has been placed in a situation or circumstances that which are likely to require judgment or actions greater than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate. A child shall not be considered neglected for the sole reason that the child's parent or other person

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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ALLEGATION

DEFINITION

responsible for his or her welfare has left the child in the care of an adult relative for any period of time [325 ILCS 5/3]. Examples include, but are not limited to:

- leaving children alone when they are too young to care for themselves.
- leaving children alone who have a condition that requires close supervision. Such conditions may include medical conditions, behavioral, mental, or emotional problems, or developmental or physical disabilities.
- leaving children in the care of an inadequate or inappropriate caregiver.
- being present but unable to supervise because of the caregiver's condition (This includes (1) the parent or caregiver who repeatedly uses drugs or alcohol to the extent that it has the effect of producing a substantial state of stupor, unconsciousness, intoxication or irrationality and (2) the parent or caregiver who cannot adequately supervise the child because of his or her medical condition, behavioral, mental, or emotional problems, or a developmental or physical disability).
- leaving children unattended in a place that which is unsafe for them when their maturity, physical condition, and mental abilities are considered.

Factors to be Considered

The following factors should be considered when determining whether a child is inadequately supervised.

Child Factors

- child's age and developmental stage, particularly related to the ability to make sound judgments in the event of an emergency.
- child's physical condition, particularly related to the child's ability to care for or protect himself or herself. Is the child physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications?
- child's mental abilities, particularly as related to the ability to comprehend the situation.

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ALLEGATION #	DEFINITION
- was--the--child's--movement--restricted--or--was--the--child--otherwise--locked--within--a--room--or--other--structure?	
Caregiver Factors	
- presence or accessibility of caregiver.	
o How long does it take the caregiver to reach the child?	
o Can the caregiver see and hear the child?	
o Is the caregiver accessible by telephone?	
o Has the child been given phone numbers to call in the event of an emergency?	
- caregiver's <u>capability</u> age .	
o Is the caregiver mature enough to assume responsibility for the situation?	
o Does the caregiver depend on extraordinary assistance to care for self and the child, i.e., meal preparation, laundry, grocery shopping, transportation?	Is the caregiver without consistent or reliable assistance?
o Is the child assuming primary caregiving duties, i.e., meal preparation, laundry, grocery shopping, transportation?	
- caregiver's physical and-mental condition.	
o Is the caregiver physically able to care for the child? Do the caregiver's own health needs present serious obstacles to the care and well-being of the child? Is--the--caregiver--able--to--make--appropriate--judgments--on--the--child's--behalf?	
- caregiver's cognitive and emotional condition.	
o Is the caregiver able to make appropriate judgments on the child's behalf?	
o Do the caregiver's own health needs present serious obstacles to the care and well-being of the child?	
Incident Factors	
- frequency of occurrence.	

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ALLEGATION #	DEFINITION
- duration of the occurrence (as related to the "child factors" above).	
- time of the day or night when the incident occurs.	
- child's location (the condition and location of the place where the minor was left without supervision).	
- the weather conditions, including whether the minor was left in a location with adequate protection from the natural elements such as adequate heat or light.	
- other supporting persons who are overseeing the child. (Was the child given a phone number of a person or location to call in the event of an emergency and whether the child was capable of making an emergency call?)	
- whether food and other provisions were left for the child.	
- other factors that may endanger the health and safety of the child.	
75	Abandonment/Desertion (Priority-11)
Abandonment	
Abandonment is parental conduct which demonstrates the purpose of relinquishing all parental rights and claims to the child. Abandonment is also defined as any parental conduct which evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child.	
Desertion	
Desertion is any conduct on the part of a parent that indicates an intention to terminate custody of the child but not to relinquish all duties to and claims on the child.	
Examples of abandonment/desertion include, but are not limited to, parents who:	
- leave a baby on a doorstep.	
- leave a baby in a garbage can.	
- leave a child with no apparent intention to return.	
- leave a child with an appropriate caregiver but fail to resume care of the child, as agreed, and the caregiver cannot or will not continue to care for the child.	

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ALLEGATION

DEFINITION

Desertion

~~Desertion is any conduct on the part of a parent which indicates an intention to terminate custody of the child but not to relinquish all duties to and claims on the child. Desertion includes leaving a child with no apparent intention to return, unless the child has been left in the care of a relative.~~

Inadequate Food {~~priority-iii~~}

Lack of food adequate to sustain normal functioning. It is not as severe as Malnutrition or Failure to Thrive, both of which require a medical diagnosis.

Examples include:

- the child who frequently and repeatedly misses meals or who is frequently and repeatedly fed insufficient amounts of food.
- the child who frequently and repeatedly asks neighbors for food and other information substantiates that the child is not being fed.
- the child who is frequently and repeatedly fed unwholesome foods when his age, developmental stage, and physical condition are considered.

Factors to be Considered

Child Factors

- child's age.
- child's developmental stage.
- child's physical condition, particularly related to the need for a special diet.
- child's mental abilities, particularly related to his ability to obtain and prepare his own food.

Incident Factors

- frequency of the occurrence.
- duration of the occurrence.
- pattern or chronicity of occurrence.
- previous history of occurrences.
- availability of adequate food.

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ALLEGATION

DEFINITION

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Inadequate Shelter {~~priority-iii~~}

Lack of shelter that which is safe and that which protects the children children from the elements.

Examples of inadequate shelter include, but are not limited to:

- no housing or shelter.
- condemned housing.
- exposed, frayed wiring.
- housing with structural defects that which endanger the health or safety of a child.
- housing with indoor temperatures consistently below 50° F.
- housing with broken windows in sub-zero weather.
- housing that which is a fire hazard obvious to the reasonable person.
- housing with an unsafe heat source that which poses a fire hazard or threat of asphyxiation.

Factors to be Considered

Child Factors

- child's age.
- child's developmental stage.
- child's physical condition, particularly when it may be aggravated by the inadequate shelter.
- child's mental abilities, particularly related to the child's ability to comprehend the dangers posed by the inadequate shelter.

Shelter Factors

- seriousness of the problem.
- frequency of the problem.
- duration of the problem.
- pattern or chronicity of the problem.
- previous history of shelter-related problems.

Inadequate Clothing {~~priority-iii~~}

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Lack of appropriate clothing to protect the child from the elements.

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ALLEGATION # DEFINITION

Factors to be Considered

Child Factors

- child's age.
- child's developmental stage.
- child's physical condition, particularly related to conditions that which may be aggravated by exposure to the elements.
- child's mental abilities, particularly related to his or her ability to obtain appropriate clothing.

Incident Factors

- frequency of the incident.
- duration of the incident.
- chronicity or pattern of similar incidents.
- weather conditions such as extreme heat or extreme cold.

79 Medical Neglect (Priority-III)

Medical or Dental Treatment

Lack of medical or dental treatment for a health problem or condition that which, if untreated, could become severe enough to constitute a serious or long-term harm to the child; lack of follow-through on a prescribed treatment plan for a condition that which could become serious enough to constitute serious or long-term harm to the child if the plan goes unimplemented.

Immunizations

Lack of immunizations required by Section 1 of the Communicable Disease Prevention Act [410 ILCS 315]L, which states:

It is declared to be the public policy of this State that all children shall be protected, as soon after birth as medically indicated, by the appropriate vaccines and immunizing procedures to prevent communicable diseases which are or which may in the future become preventable by immunization.

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ALLEGATION # DEFINITION

The Department of Public Health has specified that the following immunizations are required unless there is a medical or religious reason why these immunizations should not be administered. The judgment of the family's physician with regard to whether there is a medical reason why immunization should not be administered shall be respected.

- Diphtheria
- Pertussis
- Tetanus
- Poliomyelitis
- Measles
- Rubella
- Mumps

The investigative worker shall give the parents 30 days to begin the required immunization series.

Factors to be Considered

- child's age, particularly as it relates to the ability to obtain treatment.
- child's developmental stage.
- child's physical condition.
- seriousness of the current health problem.
- probable outcome if the current health problem is not treated and the seriousness of that outcome.
- generally accepted medical benefits of the prescribed treatment.
- generally recognized side effects/harms associated with the prescribed treatment.

It must be verified that the child has/had an untreated health problem, or that a prescribed treatment plan was implemented, or that the child has not started to receive immunizations required by State law within the 30-day period. Such verification must come from a physician, registered nurse, dentist, or by a direct admission from the alleged perpetrator. It must further be verified by a physician, registered nurse or dentist that the problem or condition, if untreated, could result in serious or long-term harm to the child.

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DEFINITION

A serious medical condition most often seen in children under one year of age. The child's weight, height and motor development fall significantly short of the average growth rates of normal children (i.e., below the fifth percentile). In about 10% of these cases, there is an organic cause such as a serious kidney, heart, or intestinal disease, a genetic error of metabolism or brain damage. All other cases are a result of a disturbed parent-child relationship manifested in severe physical and emotional neglect of the child. Non-organic failure to thrive requires a medical diagnosis before it may be indicated.

Verification of failure to thrive must come from a physician.

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Environmental Neglect {Priority-III}

The child's person, clothing, or living conditions are unsanitary to the point that the child's health may be impaired. This may include infestations of rodents, spiders, insects, snakes, etc., human or animal feces, rotten or spoiled food or rotten or spoiled garbage that which the child can reach.

Factors to be Considered

Special attention should be paid to the child's physical condition and the living conditions in the home in order to determine whether the report constitutes an allegation of harm. In addition, the following factors should be considered.

Child Factors

- child's age (children aged 6 and under are more likely to be harmed).
- child's developmental stage.
- child's physical condition.
- child's mental abilities.

Incident Factors

- severity of the conditions.
- frequency of the conditions.
- duration of the conditions.

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ALLEGATION

DEFINITION

- chronicity or pattern of similar conditions.

83

Malnutrition {Priority-I} (Non-Organic)

Lack of necessary or proper food substances in the body caused by inadequate food, lack of food, or insufficient amounts of vitamin or minerals. (Also known as marasmus or kwashiorkor.) Non-organic malnutrition requires a medical diagnosis before it may be indicated. There are various physical signs of malnutrition:

- a decrease in lean body mass or fat; very prominent ribs; the child may often be referred to as skin and bones.
- the hair is often sparse, thin, dry, and is easily pulled out or falls out spontaneously.
- the child is often pale and suffers from anemia.
- excessive perspiration, especially about the head.
- the face appears lined and aged, often with a pinched and sharp appearance.
- the skin has an old, wrinkled look with poor turgor. (Classically, skin folds hang loose on the inner thigh and buttock.)
- the abdomen is often protuberant.
- there are abnormal pulses, blood pressure, stool patterns, intercurrent infections, abnormal sleep patterns and a decreased level of physical and mental activity.

Verification of malnutrition must come from a physician.

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Lock-Out {Priority-II}

The parent or caregiver has denied the child access to the home and has refused or failed to make provisions for another living arrangement for the child.

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Medical Neglect of Disabled Infants {Priority-I}

The withholding of appropriate nutrition, hydration, medication or other medically indicated treatment from a disabled infant with a life-threatening condition. Medically indicated treatment includes medical care that which is most likely to relieve or correct all life-threatening conditions and evaluations or

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ALLEGATION

DEFINITION

consultations necessary to assure that sufficient information has been gathered to make informed medical decisions. Nutrition, hydration, and medication, as appropriate for the infant's needs, is medically indicated for all disabled infants. Other types of treatment are not medically indicated when:

- the infant is chronically and irreversibly comatose.
- the provision of the treatment would be futile and would merely prolong dying.
- the provision of the treatment would be virtually futile and the treatment itself would be inhumane under the circumstances.

In determining whether treatment will be medically indicated, reasonable medical judgments, such as those made by a prudent physician knowledgeable about the case and its treatment possibilities, will be respected. However, opinions about the infant's future "quality of life" are not to bear on whether a treatment is judged to be medically indicated.

Factors to be Considered

- infant's physical condition.
- seriousness of the current health problem.
- probable medical outcome if the current health problem is not treated and the seriousness of that outcome.
- generally accepted medical benefits of the prescribed treatment.
- generally recognized side effects associated with the prescribed treatment.
- the opinions of the Infant Care Review Committee (ICRC), (if the hospital has an ICRC).
- the judgment of the Perinatal Coordinator regarding whether treatment is medically indicated and whether there is credible evidence of medical neglect.
- the parent's knowledge and understanding of the treatment and the probable medical outcome.

Verification that treatment was medically indicated must come from a physician and may come from experts in the field of neonatal pediatrics.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Annual Emissions Report

2) Code Citation: 35 Ill. Adm. Code 254

3) Section Numbers: Proposed Action:

254.101	Amended
254.102	Amended
254.103	Amended
254.104	Repealed
254.105	Repealed
254.106	Repealed
254.107	Repealed
254.108	Repealed
254.109	Repealed
254.110	Repealed
254.111	Repealed
254.112	Repealed
254.120	New
254.130	Repealed
254.131	Repealed
254.132	Amended
254.134	Amended
254.135	Amended
254.136	Amended
254.137	New
254.138	New
254.201	Repealed
254.202	Repealed
254.203	Amended
254.204	Amended
254.301	Repealed
254.302	Repealed
254.303	Amended
254.304	Repealed
254.305	Repealed
254.306	Amended
254.401	Repealed
254.402	Repealed
254.403	Repealed
254.404	Repealed
254.501	New

4) Statutory Authority: The Environmental Protection Act [415 ILCS 5/4].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking primarily proposes to amend 35 Ill. Adm. Code 254 by restructuring the Part and clarifying reporting requirements. The proposed amendments also add reporting requirements for seasonal emissions for

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sources that are subject to the Emissions Reduction Market System (ERMS) [35 Ill. Adm. Code 205]. The reporting of seasonal emissions focuses on volatile organic material emissions, but also addresses enhanced reporting of hazardous air pollutant emissions. This enhanced reporting is needed to enable the Illinois Environmental Protection Agency to perform an annual evaluation of the ERMS program, as required by 35 Ill. Adm. Code 205.760. The Illinois Environmental Protection Agency is required to evaluate trends and spatial distribution of hazardous air pollutants as a component of this annual program evaluation.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposal does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written comments on this proposal for a period of 45 days from the date of publication in the *Illinois Register*. Comments should reference the Annual Emissions Report Rule and be addressed to:

Bonnie Sawyer
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

Questions concerning this rule should be directed to Bonnie Sawyer at the address given above or at (217)782-5544.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This proposed rulemaking will impact these entities to the extent they are subject to the reporting requirements in the rule. On the whole, the proposed amendments do not increase reporting requirements. Increased reporting requirements for hazardous air pollutants affect sources that are generally considered

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major sources of volatile organic material emissions in the Chicago ozone nonattainment area.

- B) Reporting, Bookkeeping or other procedures required for compliance:
This rule addresses reporting requirements for sources that emit certain regulated air pollutants. As such owners or operators of affected sources will be required to maintain the records necessary to complete the required reports.

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 254

ANNUAL EMISSIONS REPORT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
254.101	Applicability
254.102	Definitions
254.103	Actual Emissions (Repealed)
254.104	Annual Process Rate (Repealed)
254.105	Certifying Individual (Repealed)
254.106	Emission Determination Method (Repealed)
254.107	Emissions Summary (Repealed)
254.108	Inventory Edit Summary (Repealed)
254.109	Peak Ozone Season (Repealed)
254.110	Source Inventory Report (Repealed)
254.111	Typical Ozone Season Day (Repealed)
254.112	Applicable Pollutants for Annual Emissions Reporting
254.120	Minimum Contents of Annual Emissions Report (Repealed)
254.131	Methods of Filing Annual Emissions Report (Repealed)
254.132	Failure to File a Complete Report
254.133	Voluntary Submittal of Data
254.134	Retention of Records
254.135	Reporting of Errors
254.136	Confidentiality and Trade Secret Protection
254.137	Reporting Schedule
254.138	Issuance of Source Inventory Report

SUBPART B: REPORTING REQUIREMENTS FOR LARGE SOURCES

Section	Purpose
254.201	Annual Emissions Report (Repealed)
254.202	Reporting Schedule (Repealed)
254.203	Contents of Subpart B Annual Emissions Report
254.204	Complete Reports

SUBPART C: REPORTING REQUIREMENTS FOR OTHER SOURCES OF VOM-OR-NGO*
IN-OZONE-NONATTAINMENT-AREAS

Section	Purpose
254.301	Annual Emissions Report (Repealed)
254.302	Reporting Schedule (Repealed)
254.303	Contents of Subpart C Annual Emissions Report
254.304	Transition to Full Reporting by Large Sources (Repealed)
254.305	Continuing Requirements for Other Sources (Repealed)

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254.306 Complete Reports

SUBPART D: REPORTING REQUIREMENTS FOR SMALL SOURCES

Section	Purpose
254.401	Annual Emissions Report (Repealed)
254.402	Reporting Schedule (Repealed)
254.403	Contents of Subpart D Annual Emissions Report (Repealed)
254.404	Complete Reports (Repealed)

SUBPART E: SEASONAL EMISSIONS REPORT UNDER ERMS

Section	Purpose
254.501	Contents of a Seasonal Emissions Report

AUTHORITY: Authorized by Section 4(b) of the Environmental Protection Act [415 ILCS 5/4(b)].

SOURCE: Adopted at 17 Ill. Reg. 7782, effective May 14, 1993; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 254.101 Purpose

This Part ~~part~~ establishes uniform procedures for the reporting of air pollution emissions data from sources of regulated air pollutants and the reporting of seasonal emissions from sources participating in the Emissions Reduction Market System (ERMS), ~~including procedures for the reporting of emissions of volatile organic material (VOM) and nitrogen oxides (NOx) from sources located in ozone nonattainment areas.~~ These reports will be used to update the Agency's emissions inventory, and to enable the State to comply with the inventory and reporting requirements of Section 182(a) of the Clean Air Act (42 USC 182(a) et seq.), and to fulfill the requirements for the ERMS seasonal allotment period reporting required by 35 Ill. Adm. Code 205.300 and 205.760. The procedures presented in this Part implement the provisions of 35 Ill. Adm. Code 201.302(a), and 201.302(b), 205.300 and 205.760.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.102 Applicability

- a) Subpart B of this Part applies to: ~~the owner or operator of any source required to have an operating permit in accordance with 35 Ill. Adm. Code 281 and that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants; Subpart B also applies to the owner or operator of any source required to have an operating permit in accordance with Section 99.5 of the Environmental Protection~~

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Act (111-Rev. Stat. 1991, ch. 111, § 27, par. 1039.5, as amended, by P.A. 87-1233, effective September 26, 1992) (415 ILCS 5/39.5) and the State's approved permit program established pursuant to Title V of the Clean Air Act (42 U.S.C. 7401 et seq.) (CAAPP).

1) Owners or operators of any source required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants;

2) Owners or operators of any source required to have an operating permit in accordance with Section 39.5 of the Environmental Protection Act (415 ILCS 5/39.5); and

3) Owners or operators of sources in ozone nonattainment areas that have a potential to emit 25 tons per year or more of either VOC or NO[X] from all emission units.

b) Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section. ~~that has a potential to emit 25 tons per year or more of either VOC or NO[X] for all emission units at that source and which is located in any ozone nonattainment area within the State of Illinois.~~

c) The provisions of Subpart D of this Part apply ~~applies~~ to the owner or operator of any source that is subject to the seasonal reporting requirements for ERMS required by 35 Ill. Adm. Code 205.300, as specified under Section 254.501 of Subpart E of ~~of-regulated-air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 and which is not subject to subsections (a) or (b) above.~~

Section 254.103 Definitions

Except as otherwise defined in this Part, definitions of terms used in this Part shall be those used in the Environmental Protection Act (111-Rev. Stat. 1991, ch. 111, § 27, par. 1001 et seq.) (415 ILCS 5/1 et seq.) and in 35 Ill. Adm. Code: Subtitle B.

"Actual emissions" means the rate of emission of a regulated air pollutant from a source or an emission unit for the calendar year, seasonal period, day or other period of time, as specified, based on the best information available to the owner or operator of that emissions unit. Actual emission rates include startup, shutdown or malfunction emissions. The calculation of actual emissions must follow an "emission determination method". Where, for any reason, a source has measured any of its emissions, the source must report the measured total as its "actual emissions" for those pollutants rather than using an estimation method to derive the total for that period of time during which the measurements were taken.

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"Annual Emissions Report" means the information and certifications required by Subparts B and C of this Part, as applicable under Section 254.102(a) or (b) of this Subpart, and any additional requirements for submission with the Annual Emissions Report specifically imposed by the source's permit.

"Annual process rate" means the actual or estimated annual fuel operating rate, process operating rate, or waste operating rate.

"Certifying individual" means the individual responsible for the certification of the accuracy of the Annual Emissions Report and who will take legal responsibility for the information verified or reported in the Annual Emissions Report.

"Emission determination method" means the method generally accepted and used by those persons engaged in the field of air pollution control to derive actual emissions, whether measured or estimated. A permit condition may specify the emission determination method to be used.

"Peak ozone season" means the months of June, July and August.

"Seasonal Emissions Report" means the seasonal report required under ERMS at 35 Ill. Adm. Code 205.300 and the information and certifications required by Subpart E of this Part, as applicable under Section 254.102(c) of this Subpart.

"Source Inventory Report" means the report that the Agency provides to a source that lists data fields for the information required in the Annual Emissions Report, and contains the information, if any, that previously has been reported to the Agency by the source for those data fields.

"Typical peak ozone season day" means any day representative of source operations during the peak ozone season.

Section 254.104 Actual Emissions (Repealed)

"Actual emissions" means the rate of emission of a regulated air pollutant from a source or an emissions unit for the calendar year, seasonal period, day or other period of time as specified based on the best information available to the owner or operator of that emissions unit. ~~Actual emission rates include startup, shutdown or malfunction emissions. The calculation of actual emissions must follow an emission determination method. Where, for any reason, a source has measured any of its emissions, the source must report the measured total as its actual emissions for those pollutants rather than using an estimation method to derive the total for that period of time during which the measurements were taken.~~

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(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.105 Annual Process Rate (Repealed)

"Annual-process-rate" means the actual or estimated annual fuel operating rate, process operating rate, or waste operating rate;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.106 Certifying Individual (Repealed)

"Certifying individual" means the individual responsible for the certification of the accuracy of the Annual Emissions Report and who will take legal responsibility for the information verified or reported in the Annual Emissions Report;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.107 Emission Determination Method (Repealed)

"Emission determination method" means the method generally accepted and used by those persons engaged in the field of air pollution control to derive actual emissions, whether measured or estimated;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.108 Emissions Summary (Repealed)

"Emissions Summary" means the portion of the Source Inventory Report listing the data fields for the information required in the minimum Annual Emissions Report prescribed at Section 254.130 of this Part;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.109 Inventory Edit Summary (Repealed)

"Inventory Edit Summary" means the report that the Agency provides to the source that lists data fields from the Source Inventory Report that the Agency has reason to believe are incorrect, incomplete or outdated;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 254.110 Peak Ozone Season (Repealed)

"Peak-ozone-season" means the months of June, July and August:
(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.111 Source Inventory Report (Repealed)

"Source inventory report" means the report that the Agency provides to the source that lists data fields for the information required in the Annual Emissions Report and contains the information, if any, that previously has been reported to the Agency for those data fields;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.112 Typical Ozone Season Day (Repealed)

"Typical-ozone-season-day" means any day, Monday through Friday, representative of source operations during the peak-ozone season;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.120 Applicable Pollutants for Annual Emissions Reporting

Each Annual Emissions Report shall include applicable information for all regulated air pollutants, as defined in Section 39.5 of the Act [415 ILCS 5/39.5], except for the following pollutants:

- a) A pollutant emitted from an emission unit that is considered an insignificant activity under the source's Clean Air Act Permit Program (CAAPP) permit or, if the initial CAAPP permit for the source has not been issued, proposed as an insignificant activity in the source's CAAPP application, or is exempt from permitting requirements under 35 Ill. Adm. Code 201.146; or
- b) A hazardous air pollutant emitted by an emission unit that is not subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP) or maximum achievable control technology (MACT). For purposes of this subsection (b), emission units that are not required to control or limit emissions but are required to monitor, keep records, or undertake other specific activities are considered subject to such regulation or requirement.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 254.130 Minimum Contents of Annual Emissions Report (Repealed)

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As a minimum, each Annual Emissions Report filed pursuant to 35 Ill. Adm. Code 254 shall contain:

- a) Source identification information:
- 1) Source name, physical location and mailing address;
 - 2) SIC code;
 - 3) Source contact;
 - 4) Source contact telephone number;
- b) Source-wide totals of actual emissions for all regulated air pollutants emitted by the source;
- c) The following certification statement: "All Annual Emissions Report data verified, modified or provided on behalf of the company named above, whether submitted electronically or in writing, represents the best available information and is true and accurate to the best of my knowledge." The certification statement shall be accompanied by the full name of the certifying individual, date of signature and a telephone number of the certifying individual.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.131 Methods of Filing Annual Emissions Report (Repealed)

Each owner or operator subject to a reporting requirement pursuant to 35 Ill. Adm. Code 254 must file the minimum Annual Emissions Report pursuant to Section 254.130 of this Part in paper form. This will satisfy the requirement for the information listed in the Emissions Summary portion of the Source Inventory Report. When revisions or additions have been made to the information in the remainder of the Source Inventory Report, that information may be filed in paper form or electronically.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.132 Failure to File a Complete Report

- a) Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) Subparts B, C and D of this Subpart Part shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).
- b) Failure to file a complete Seasonal Emissions Report by the applicable deadlines prescribed in Section 254.137(b) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 205.300.
- c) Failure to receive the Source Inventory Report from the Agency pursuant to Subparts B, C or D of this Part does not relieve an owner or operator from the obligation to file a complete Annual Emissions Report. Any owner or operator who does not receive the Source Inventory Report at least ninety (90) days before the applicable reporting deadline may contact the Agency to request the Source

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Inventory Report.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.134 Retention of Records

The Agency may require information from the owner or operator to substantiate the contents of the Annual Emissions Report or the Seasonal Emissions Report filed. All records and calculations upon which the verified and reported data are based must be retained by the source for a minimum of ~~three~~ 3 years following the filing of a complete report, unless a longer period is specified in the source's permit. A request for such information may be made up to ~~three~~ 3 years following the filing of a complete report, unless a longer period for record retention is specified in the source's permit. The source shall provide the requested information in a format acceptable to the Agency within ~~thirty~~ 30 days after the receipt of the request. Nothing in this Section shall be interpreted to impose any additional monitoring that which is not otherwise required by applicable rules or a permit conditions condition.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.135 Reporting of Errors

If, after submitting any Annual Emissions Report required by this Part 254, the owner or operator discovers an error in the data reported, the owner or operator shall notify the Agency of the error in writing and shall provide the Agency with the correct data. The notification and correction shall be conveyed to the Agency within ~~thirty~~ 30 days after the owner's or operator's discovery of the error. The corrected data shall be certified in accordance with Section 254.203(c) or 254.303(c) 254.130(e) of this Part, as applicable.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.136 Confidentiality and Trade Secret Protection

Information reported in any Annual Emissions Report or Seasonal Emissions Report and claimed to be confidential or a trade secret shall be subject to the procedures for submitting, identifying and protecting such information that are set forth in ~~Ill. Rev. Stat. 1991, Ch. 111, 1/2, par. 1007~~ 415 ILCS 5/77--2 ~~Ill. Adm. Code 1026 and 1027~~ and 35 Ill. Adm. Code 130.126.

Section 254.137 Reporting Schedule

- a) All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

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b) Seasonal Emissions Reports must be submitted for the preceding seasonal allotment period in accordance with the following schedule:

- 1) For each participating source or new participating source that generates VOM emissions from less than 10 emission units, by October 31 of each year; or
- 2) For each participating source or new participating source that generates VOM emissions from 10 or more emission units, by November 30 of each year.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 254.138 Issuance of Source Inventory Report

At least 90 days prior to a source's deadline for filing an Annual Emissions Report, the Agency shall provide to such source the applicable Source Inventory Report. The Source Inventory Report shall contain all data fields for the information required under Section 254.203 or 254.303 of this Part, as applicable. Where the information requested in the data fields has previously been provided to the Agency, the Agency shall provide this data on the Source Inventory Report for verification or modification by the owner or operator. Where the required information has not been previously provided by the owner or operator and is applicable to the activities, equipment or emissions of the source, it must be provided by the owner or operator. The information on emissions shall be based on the best information available to the owner or operator of that source or emissions unit.

(Source: Added at 25 Ill. Reg. _____, effective _____)

SUBPART B: REPORTING REQUIREMENTS FOR LARGE SOURCES**Section 254.201 Annual Emissions Report (Repealed)**

At least ninety (90) days prior to a source's deadline for filing an Annual Emissions Report, the Agency shall provide to such source the Source Inventory Report and the Inventory Edit Summary, if applicable. The Source Inventory Report shall contain all data fields for the information required under Sections 254.138 and 254.203 of this Part, where the information requested in the data fields has previously been provided to the Agency. The Agency shall provide this data on the Source Inventory Report for verification or modification by the owner or operator. Where the required information has not been previously provided by the owner or operator and is applicable to the activities, equipment or emissions of the source, it must be provided by the owner or operator. The information on emissions shall be based on the best information available to the owner or operator of that source or emission unit.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 254.202 Reporting Schedule (Repealed)

a) For each source subject to the applicability requirements of Section 254.102(a) of this Part, the first Annual Emissions Report shall be filed for all regulated air pollutants pursuant to Subpart B of this Part shall be for the calendar year following the year in which the USEPA approves or conditionally approves the State's CAAPP implemented pursuant to Section 39.5 of the Environmental Protection Act (117 Rev. Stat., ch. 111, § 12, par. 1039.5) as amended by P.A. 87-1213, effective September 26, 1992 (415 ILCS 5/39.5). For example, if the USEPA approves or conditionally approves the CAAPP program in 1994, the first full Annual Emissions Report shall include emissions information for calendar year 1995 and shall be filed with the Agency by May 17, 1996. Thereafter, an Annual Emissions Report shall be filed with the Agency for each calendar year by May 17 of the subsequent year.

b) Commencing with the calendar year 1992, all sources subject to Section 254.102(a) of this Part shall file an Annual Emissions Report pursuant to Subpart B of this Part until such time as the source is required to file a full Annual Emissions Report pursuant to subsection (a) above. For example, if the first full Annual Emissions Report for a source must be filed for calendar year 1995, the owner or operator must file an Annual Emissions Report pursuant to the requirements of Subpart B of this Part for calendar years 1992, 1993, and 1994.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.203 Contents of Subpart B Annual Emissions Report

The Annual Emissions Report filed pursuant to this Subpart B of this Part shall be limited to information requested by the Agency and required in the application for permits or renewals, including source identification information, emissions information, operating data, control device information, and exhaust point information for each regulated air pollutant emitted at the source. The information shall be provided for an individual emission unit or operation if this is also required in the application for permits or renewals. The Annual Emissions Report to be filed pursuant to this Subpart shall contain the following information, as applicable:

- a) Source identification information:
 - 1) Source name, physical location and mailing address;
 - 2) SIC code;
 - 3) Source contact; and
 - 4) Source contact telephone number.
- b) Source-wide totals of actual emissions for all regulated air pollutants emitted by the source.

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c) The following certification statement, unless another statement is required to be submitted pursuant to the source's permit: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete." The certification statement shall be signed and dated by the certifying individual and accompanied by the printed full name, title, and a telephone number of the certifying individual.

d) Emissions information for each emission unit producing or capable of producing any regulated air pollutant, including:

- 1) Annual actual emissions of each regulated air pollutant;
 - 2) Actual VOM and/or NO(x) emissions for a typical peak ozone season day;
 - 3) Startup, shutdown and malfunction emissions of each regulated air pollutant in excess of typical emissions;
 - 4) Emission determination method for each of the actual emission figures reported; and
 - 5) Emission factors, where applicable.
- e) Operating data for each emission unit producing or capable of producing any regulated air pollutant, including:
- 1) Percent annual throughput by season;
 - 2) Annual process rate;
 - 3) Peak ozone season daily process rate for VOM and/or NO(x);
 - 4) Fuel data, such as heat content and other fuel characteristics;
 - 5) Physical characteristics of tanks, such as height and diameter;
 - 6) Tank data, such as throughput and material stored;
 - 7) Normal operating schedule, consisting of the following:
 - A) Hours per day;
 - B) Days per week;
 - C) Weeks per year; and
 - D) Hours per year;

8) Peak ozone season operating schedule for emission units that emit VOM or NO(x), consisting of the following:

- A) Hours per day;
- B) Days per week;
- C) Weeks per season; and
- D) Hours per season.

f) Control device information, if any changes have occurred from the Annual Emissions Report for the prior year, including:

- 1) Description of the control method(s);
- 2) Capture efficiency in percent; and
- 3) Current control efficiency in percent for each regulated air pollutant.

g) Exhaust point parameters, if any changes have occurred from the Annual

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Emissions Report for the prior year, including:

- 1) Height;
- 2) Diameter;
- 3) Flow rate; and
- 4) Exit temperature.

h) Any additional data required to be reported as specified in permit condition(s) for the source.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.204 Complete Reports

The Annual Emissions Report shall be considered complete if it contains the information required by Section Sections-254-i30-and 254.203 of this Subpart Part for all regulated air pollutants emitted by the source to the extent that information is applicable to the activities, equipment or emissions of the source during the year for which the report is submitted. Information required by Section 254-i30-and 254.203 of this Subpart Part and provided by the Agency in the Source Inventory Report must be either verified as accurate or modified by the owner or operator, to the extent the Source Inventory Report is relied upon by the owner or operator to compile the Annual Emissions Report. Information required by Section Sections-254-i30-and 254.203 of this Subpart Part but not provided by the Agency must be provided by the owner or operator, unless the information has been previously provided to the Agency.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART C: REPORTING REQUIREMENTS FOR OTHER SOURCES OF VOM-OR-NO(x) IN-OTHER-NONATTAINMENT-AREAS

Section 254.301 Annual Emissions Report (Repealed)

a) Commencing-with-calendar-year-1992,-the-owner-or-operator-of-any source-subject-to-Section-254-i30(b)-of-this-Part-shall-submit-an Annual-Emissions-Report-to-the-Agency-detailing-its-actual-emissions of-regulated-air-pollutants:

- i) For-those-emission-units-producing-or-capable-of-producing-VOM-or NO(x)-the-owner-or-operator-shall-provide-the-information required-by-Sections-254-i30-and-254.303-of-this-Part---if-a source-has-a-total-potential-to-emit-25-tons-per-year-or-more-of either-VOM-or-NO(x)-for-all-emission-units-the-owner-or-operator must-provide-the-information-required-by-Sections-254-i30-and 254.303-for-both-VOM-and-NO(x);

2) For-all-regulated-air-pollutants-emitted-by-the-source-except-VOM and-NO(x)-the-owner-or-operator-shall-submit-to-the-Agency-the information-required-by-Section-254-i30-of-this-Part.

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- b) At least ninety (90) days prior to a source's deadline for filing an Annual Emissions Report, the Agency shall provide to such source the Source Inventory Report and the Inventory Edit Summary, if applicable. The Source Inventory Report shall contain all data fields for the information required under Sections 254.130 and 254.303 of this Part. Where the information requested in the data fields has previously been provided to the Agency, the Agency shall provide this data on the Source Inventory Report for verification or modification by the owner or operator. Where the required information has not been previously provided by the owner or operator and is applicable to the activities, equipment or emissions of the source, it must be provided by the owner or operator. The information on emissions shall be based on the best information available to the owner or operator of that source or emission unit.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.302 Reporting Schedule (Repealed)

The filing deadline for the Annual Emissions Report for calendar year 1992 shall be October 1, 1993. Thereafter, reports for each calendar year shall be due by May 1 of the subsequent year.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.303 Contents of Subpart C Annual Emissions Report

The Annual Emissions Report to be filed pursuant to this Subpart C of this Part shall contain the following information:

- a) Source identification information: All information required pursuant to Section 254.130 of this Part.
- 1) Source name, physical location and mailing address;
 - 2) SIC code;
 - 3) Source contact; and
 - 4) Source contact telephone number.
- b) Source-wide totals of actual emissions for all regulated air pollutants emitted by the source. Emissions information for each emission unit producing or capable of producing either VOC or NO_x or both that includes:
- 1) Annual actual emissions of VOC and/or NO_x;
 - 2) Actual VOC and/or NO_x emissions for a typical ozone season day;
 - 3) Startup/shutdown and malfunction emissions of VOC and/or NO_x;
 - 4) Emission determination method for each of the actual emission figures reported;
 - 5) Emission factors.
- c) The following certification statement, unless another statement is

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required to be submitted pursuant to the source's permit: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete." The certification statement shall be signed and dated by the certifying individual and accompanied by the printed full name, title, and a telephone number of the certifying individual. Operating data for each emission unit producing or capable of producing VOC or NO_x that includes:

- 1) Percent annual throughput by season;
- 2) Annual process rate;
- 3) Peak ozone season daily process rate;
- 4) Fuel data;
- 5) Physical characteristics of tanks;
- 6) Tank data;
- 7) Number of hours of operation per day.
 - A) On the normal operating schedule;
 - B) On a typical ozone season day if different from the normal operating schedule;
- 8) Number of days of operation per week.
 - A) On the normal operating schedule;
 - B) During the peak ozone season if different from the normal operating schedule;
- 9) Total actual hours of operation for the reporting year.

d) Control device information that includes:

- 1) Description of control method(s);
- 2) Capture efficiency in percent;
- 3) Current control efficiency in percent for VOC and/or NO_x;
- e) Exhaust point parameters that include:

- 1) Height;
- 2) Diameter;
- 3) Flow rate;
- 4) Exit temperature.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 254.304 Transition to Full Reporting by Large Sources (Repealed)

Each source subject to Subpart C and which also satisfies the applicability requirements of Section 254.102(a) of this Part shall make the transition to full reporting for all regulated air pollutants pursuant to Subpart B of this Part and shall no longer be subject to Subpart C of this Part. The first such Annual Emissions Report filed for all regulated air pollutants shall be for the calendar year following the year in which the USEPA approves or conditionally

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approves the State's CAAPP program, implemented pursuant to Section 39-5 of the Environmental Protection Act (415 Rev. Stat. 1991-7, Ch. 111-1/27, par. 1039-57 as amended by P.A. 87-1213, effective September 26, 1992) (415-1508--5/39-51). For example, if the USEPA approves or conditionally approves the CAAPP program in 1994, the first full Annual Emissions Report shall be for calendar year 1995 and shall be filed with the Agency by May 17, 1996. Thereafter, a full Annual Emissions Report conforming to the requirements of Subpart B of this Part shall be filed with the Agency for each calendar year by May 1 of the subsequent year.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.305 Continuing Requirements for Other Sources (Repealed)

Each source subject to Subpart C of this Part but which does not otherwise meet the applicability requirements of Section 254.102(a) of this Part shall not make the transition to full reporting but shall continue to file Annual Emissions Reports in accordance with Sections 254.301, 254.302, 254.303 and 254.306 of this Part.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.306 Complete Reports

The Annual Emissions Report under this Subpart shall be considered complete if it contains the information required by Section 254.303 of this Subpart and any additional data required to be reported as specified in permit condition(s), to the extent that the information is applicable to the activities, equipment or emissions of the source during the year for which the report is submitted. Information required by Section 254.303 of this Subpart and provided by the Agency in the Source Inventory Report must be either verified as accurate or modified by the owner or operator, to the extent the Source Inventory Report is relied upon by the owner or operator, to compile their Annual Emissions Report. Information listed in Section 254.303 of this Subpart, but not provided by the Agency in the Source Inventory Report, must be provided by the owner or operator, unless the information has been previously provided to the Agency.

a) The Annual Emissions Report filed pursuant to Subpart C of this Part shall be considered complete if it contains all information listed in Sections 254.130 and 254.303 of this Part for emission units producing or capable of producing either VOC or NOx, or both, to the extent that information is applicable to the activities, equipment or emissions of the source during the year for which the report is submitted. Information listed in Sections 254.130 and 254.303 of this Part and provided by the Agency must be either verified as accurate or modified by the source. Information listed in Sections 254.130 and 254.303 of this Part but not provided by the Agency must be provided by the owner

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or operator unless the information has been previously provided to the Agency.

b) For all regulated air pollutants emitted by the source except VOC and NOx, a complete report shall contain the information required pursuant to Section 254.130 of this Part. Information listed in Section 254.130 of this Part and provided by the Agency must be either verified as accurate or modified by the source. Information listed in Section 254.130 of this Part but not provided by the Agency must be provided by the owner or operator unless the information has been previously provided to the Agency.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART D: REPORTING REQUIREMENTS FOR SMALL SOURCES

Section 254.401 Annual Emissions Report (Repealed)

At least ninety (90) days prior to a source's deadline for filing an Annual Emissions Report, the Agency shall provide to such source the Source Inventory Report and the Inventory Edit Summary if applicable. The Source Inventory Report shall contain all data fields for the information listed at Section 254.403 of this Part. Where the information requested in the data fields has previously been provided to the Agency, the Agency shall provide this data on the Source Inventory Report for verification or modification by the owner or operator. Where the required information has not been previously provided by the owner or operator and is applicable to the activities, equipment or emissions of the source, it must be provided by the owner or operator. The information on emissions shall be based on the best information available to the owner or operator of the source or emission unit.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.402 Reporting Schedule (Repealed)

a) The first Annual Emissions Report filed pursuant to Subpart B shall be for the calendar year 1992.

b) The filing deadline for the Annual Emissions Report to be filed pursuant to Subpart B of this Part for calendar year 1992 shall be October 17, 1993. Thereafter, reports for each calendar year shall be filed with the Agency by May 1 of the subsequent year. For example, the report filed for calendar year 1993 shall be due at the Agency by May 17, 1994.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 254.403 Contents of Subpart D Annual Emissions Report (Repealed)

~~The Annual Emissions Report required under Subpart B shall contain the information listed in Section 254.403 of this Part including source identification information, the total actual emissions of each regulated air pollutant emitted by the source, and a complete certification statement.~~

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 254.404 Complete Reports (Repealed)

~~The Annual Emissions Report for Subpart B shall be considered complete if it contains the information required by Section 254.403 of this Part to the extent that information is applicable to the activities, equipment or emissions of the source during the year for which the report is submitted. Information required by Section 254.403 of this Part and provided by the Agency must be either verified as accurate or modified by the owner or operator. Information listed in Section 254.403 of this Part but not provided by the Agency must be provided by the owner or operator, unless the information has been previously provided to the Agency.~~

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART E: SEASONAL EMISSIONS REPORT UNDER ERMS

Section 254.501 Contents of a Seasonal Emissions Report

a) The owner or operator of a source subject to the seasonal emissions reporting requirements for ERMS required by 35 Ill. Adm. Code 205.300 must provide the following information:

- 1) Source identification information:
 - A) Source name, physical location and mailing address;
 - B) Name of responsible official; and
 - C) Source contact telephone number.
- 2) The following certification statement, unless another statement is required to be submitted pursuant to the source's permit: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete." The certification statement shall be signed and dated by the responsible official and accompanied by her or his printed full name, title, and a telephone number.

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3) Total actual seasonal VOM emissions, excluding emission units exempt under 35 Ill. Adm. Code 205.220, and including identification of the following:

- A) Emissions from units included in the ERMS baseline determination;
- B) Emissions from units permitted prior to January 1, 1998, but not yet included in the ERMS baseline;
- C) Emissions attributable to major modifications;
- D) Emissions from emergency conditions approved in accordance with 35 Ill. Adm. Code 205.750(c); and
- E) Excess emissions allowed by variance, consent order or CAAPP permit compliance schedule.

4) The following information must be provided for each emission unit addressed in subsection (a)(3) of this Section:

- A) Name of each emission unit;
- B) Actual seasonal production or material usage;
- C) Method of emissions calculation; and
- D) Actual seasonal VOM emissions.

b) The owner or operator of a participating source or new participating source under 35 Ill. Adm. Code 205 must provide total seasonal actual emissions of hazardous air pollutants (HAPs) that are also VOM for the following HAPs:

- 1) Each VOM HAP that is regulated at the source by MACT or a NESHAP;
- 2) Each VOM HAP for which the source is considered a major source based on emissions of a single HAP or combination of HAPs under section 112 of the Clean Air Act (42 USC 7412); and
- 3) Each VOM HAP reported as an air emission on the Toxic Chemical Release Inventory Reporting Form (42 USC 1123) (Form R), unless the owner or operator certifies that seasonal emissions of each such VOM HAP are approximately 5/12 of annual emissions and are estimated to be no more than 10 percent different from air releases of such VOM HAPs reported in the previous Form R.

c) The owner or operator of each participating source or new participating source under 35 Ill. Adm. Code 205 must provide responses to the following questions regarding VOM HAPs for the seasonal allotment period addressed in the Seasonal Emissions Report:

- 1) To your knowledge, did emissions of any HAP increase at your source due to receipt or expected receipt of additional Allotment Trading Units (ATUs)?

2) Based on information for determining if your source emitted a HAP that must be reported pursuant to subsection (b) of this Section, or information that you otherwise obtained, did your source emit any VOM HAP in an amount of 1,000 pounds per year or more that is not subject to the reporting requirements in subsection (b) of this Section?

3) Since the due date of the last Seasonal Emissions Report required to be submitted, has the source replaced a VOM with a HAP that is not a VOM?

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d) HAP Information Request Letter

1) If a participating source or new participating source has answered at least one of the questions in subsection (c) of this Section affirmatively, the Agency may send a HAP Information Request Letter to that source to obtain additional information to evaluate trends and spatial distribution of HAP emissions if the Agency deems such information is needed to further evaluate HAP emissions during the seasonal allotment period. The Agency must consider the following factors in determining whether to send a HAP Information Request Letter:

- A) Information on emissions amounts previously submitted in Annual Emissions Reports or Form R;
- B) Information obtained during inspections of the facility by the Agency or pursuant to the Clean Air Act;
- C) Affirmative responses to the questions in subsection (c) of this Section; and
- D) The type or location of industrial activity.

2) Each source that receives a HAP Information Request Letter from the Agency must submit the requested information to the Agency within 30 days after the date of the letter.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Livestock Waste Regulations

2) Code Citation: 35 Ill. Adm. Code 506

3) Section Numbers: Proposed Action:

506.101	Amend
506.103	Amend
506.104	Amend
506.105	Repeal
506.106	Amend
506.201	Amend
506.202	Amend
506.203	Repeal
506.204	Amend
506.205	Amend
506.206	Amend
506.207	Amend
506.208	Amend
506.209	Repeal
506.210	New
506.301	Amend
506.302	Amend
506.303	Amend
506.304	Amend
506.305	Amend
506.306	Amend
506.307	Amend
506.308	New
506.309	Amend
506.310	Amend
506.311	Amend
506.312	Amend
506.313	Repeal
506.314	Repeal
506.401	Repeal
506.501	Repeal
506.601	Repeal
506.602	Repeal
506.603	Repeal
506.604	Repeal
506.605	Repeal
506.606	Repeal
506.607	Repeal
506.608	Repeal
506.610	Repeal
506.611	Repeal
506.612	Repeal
506.613	Repeal

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- 506.614 Repeal
 506.615 Repeal
 506.620 Repeal
 506.701 Repeal
 506.702 Repeal
 506.703 Repeal
 506.704 Repeal
 APPENDIX A
 Illustration A Repeal
 Illustration B Repeal

4) Statutory authority: Authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27] and Section 55 of the Livestock Management Facilities Act [510 ILCS 77/55] and implementing the Livestock Management Facilities Act [510 ILCS 77].

5) A complete description of the subjects and issues involved: This rulemaking establishes new design and construction standards for livestock waste lagoons and livestock waste handling facilities other than lagoons. Other changes include amendments and repeals of Sections now replaced by the Department of Agriculture's rules at 8 Ill. Adm. Code 900.

6) Will these proposed rulemakings replace emergency rulemakings currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rulemakings contain incorporations by reference? Yes. See Section 506.104.

9) Are there any other amendments pending on this Part? Proposed amendments to this Part were published in the *Illinois Register* on January 12, 2001 (25 Ill. Reg. 338). However, this rulemaking incorporates the changes proposed in the earlier amendments. Therefore, in conjunction with this rulemaking, the Board has filed for publication in the *Illinois Register* a Notice of Withdrawal of the proposed amendments published in the January 12, 2001 *Illinois Register*.

10) Statement of statewide policy objectives: The purpose of this rulemaking is to implement the more stringent standards of the amended LMFA with respect to design and construction standards for livestock waste lagoons and non-lagoon livestock waste handling facilities. Further, these amendments make the Board's rules consistent with the Department of Agriculture's rules at 8 Ill. Adm. Code 900.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for at least 45 days after the date of publication in the

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Illinois Register. Comments should reference Docket R01-28 and be addressed to:

Clerk's Office
 Illinois Pollution Control Board
 100 W. Randolph St., Suite 11-500
 Chicago, IL 60601

Questions may be addressed to Carol Sudman at 217-524-8509 or at sudmanc@pcb.state.il.us.

Interested persons may request copies of the Board's opinion and order from Patricia Jones, at 312-814-3620 or download from the Board's Web site at www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking affects persons engaged in livestock operations.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments to Part 506 may require the reporting of site conditions to the Department of Agriculture for plan approval. Most of these requirements are now located at 8 Ill. Adm. Code 900.

C) Types of professional skills necessary for compliance: Compliance with these amendments may require the assistance of a licensed engineer, geologist, or representative of Natural Resources Conservation Service of the United States Department of Agriculture.

13) Regulatory agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE E: AGRICULTURE RELATED POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD

PART 506

LIVESTOCK WASTE REGULATIONS

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506.308	Additional Synthetic Material Design and Construction Standards
506.309	Additional Wooden Material Design and Construction Standards Nitrogen Credits
506.310	Additional Design and Construction Standards for Construction in an Area with Shallow Aquifer Material Records-of-Waste-Disposal
506.311	Additional Design and Construction Standards for Construction in a Flood Fringe Area Approval-of-Waste-Management-Plans
506.312	Additional Design and Construction Standards for Construction in a Karst Area Sludge-Removal
506.313	Plan Updates (Repealed)
506.314	Penalties (Repealed)

SUBPART D: CERTIFIED LIVESTOCK MANAGER

Applicability (Repealed)

SUBPART E: PENALTIES

General (Repealed)

SUBPART F: FINANCIAL RESPONSIBILITY

Section	
506.501	General (Repealed)
Section	
506.601	Scope, Applicability, and Definitions (Repealed)
506.602	Mechanisms for Providing Evidence of Financial Responsibility (Repealed)
506.603	Level of Surety (Repealed)
506.604	Upgrading Surety Instrument (Repealed)
506.605	Release of Lagoon Owner and Financial Institution (Repealed)
506.606	Financial Responsibility Proceeds (Repealed)
506.607	Use of Multiple Surety Instruments (Repealed)
506.608	Use of a Single Surety Instrument for Multiple Lagoons (Repealed)
506.610	Commercial or Private Insurance (Repealed)
506.611	Guarantee (Repealed)
506.612	Surety Bond (Repealed)
506.613	Letter of Credit (Repealed)
506.614	Certificate of Deposit or Designated Savings Account (Repealed)
506.615	Participation in a Livestock Waste Lagoon Closure Fund (Repealed)
506.620	Penalties (Repealed)

SUBPART G: SETBACKS

Section	
506.701	Applicability (Repealed)
506.702	Procedures (Repealed)
506.703	Initial Determination of Setbacks (Repealed)

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506.704 Penalties (Repealed).

APPENDIX A Surety Instruments (Repealed)
ILLUSTRATION A Surety Bond (Repealed)
ILLUSTRATION B Irrevocable Standby Letter of Credit (Repealed)

AUTHORITY: Authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27] and Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [510 ILCS 77].

SOURCE: Adopted in R97-15(A) at 21 Ill. Reg. 6851, effective May 20, 1997; amended in R97-15(B) at 22 Ill. Reg. 20605, effective November 12, 1998; amended in R01-28 at 25 Ill. Reg. _____, effective _____.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART A: GENERAL PROVISIONS

Section 506.101 Applicability

This Subpart applies to 35 Ill. Adm. Code 506. The applicability of Subpart B, Standards for the Design and Construction of Livestock Waste Lagoons, is set forth at Section 506.201 of this Part. The applicability of Subpart C, Standards for the Design and Construction of Livestock Waste Handling Facilities Other Than Lagoons Waste-Management-Plan, is set forth at Section 506.301 506.302 of this Part. ~~the applicability of Subpart B-Certified Livestock Manager--is--set--forth--at--Section--506.401--of--this--Part--the applicability of--Subpart-P-Financial-Responsibility--is--set--forth--at--Section 506.601--of--this--Part--the applicability of--Subpart-67-Setbacks--is--set--forth at--Section--506.701--of--this--Part:~~

BOARD NOTE: Upon the effective date of this Part, the emergency rules at 35 Ill. Adm. Code 505, Livestock Waste Regulations, will no longer apply. This Part will take the place of those emergency rules. Additionally, the standards and specifications for the construction of livestock waste handling facilities contained in this Part shall be used in conjunction with the regulations at 8 Ill. Adm. Code 900.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part

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shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5] or the Livestock Management Facilities Act [510 ILCS 77]. For the purposes of this Part, the terms included herein shall have the following meanings:

"Agency"--means--the--Illinois--Environmental-Protection-Agency-- [510 ILCS 77/10.5]

"Animal feeding operation" means a feeding operation as defined in the Illinois Environmental Protection Act and the rules promulgated under that Act concerning agriculture related pollution. [510 ILCS 77/10.7]

"Animal unit" means a unit of measurement for any animal feeding operation calculated as follows:

Brood cows and slaughter and feeder cattle multiplied by 1.0.

Milking dairy cows multiplied by 1.4.

Young dairy stock multiplied by 0.6.

Swine weighing over 55 pounds multiplied by 0.4.

Swine weighing under 55 pounds multiplied by 0.03.

Sheep, lambs, or goats multiplied by 0.1.

Horses multiplied by 2.0.

Turkeys multiplied by 0.02.

Laying hens or broilers multiplied by 0.005.

Laying hens or broilers multiplied by 0.01 (if the facility has continuous overflow watering).

Laying hens or broilers multiplied by 0.03 (if the facility has a liquid manure handling system).

Ducks multiplied by 0.02. [510 ILCS 77/10.10]

For species of animals in an animal feeding operation not specifically listed in this definition, the animal unit factor shall be determined by dividing the average mature animal weight by 1,000. The average mature animal weight shall be determined by the Department with the guidance from the University of Illinois Cooperative Extension Service.

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"Aquifer material" means sandstone that is five feet or more in thickness, or fractured carbonate that is ten feet or more in thickness; or sand, gravel, or sand and gravel, as defined herein, such that there is at least two feet or more present within any five foot section of a soil boring performed in accordance with Sections 506.202 and 506.302 of this Part.

"Certified--livestock--manager"--means--a--person--that--has--been--duly certified--by--the--Department--as--an--operator--of--a--livestock--waste handling--facility. [510-ILCS-77/10-15]

"Department" means the Illinois Department of Agriculture. [510 ILCS 77/10.20]

"Farm--residence"--means--any--residence--on--a--farm--owned--or--occupied--by--the--farm--owners--operators--tenants--or--seasonal--or--year-round--hired workers--For--purposes--of--this--definition--a--"farm"--is--the--land--buildings--and--machinery--used--in--the--commercial--production--of--farm products--and--"farm--products"--are--those--plants--and--animals--and--their products--which--are--produced--or--raised--for--commercial--purposes--and include--but--are--not--limited--to--forages--and--seed--crops--grains--and--feed crops--dairy--and--dairy--products--poultry--and--poultry--products--livestock--fruits--vegetables--flowers--seeds--grasses--trees--fish--honey--and--other--similar--products--or--any--other--plant--animal--or--plant or--animal--product--which--supplies--people--with--food--feed--fiber--or fur. [510-ILCS-77/10-23]

"Flood fringe" means that portion of the floodplain outside the floodway.

"Floodplain" means that land adjacent to a body of water with ground surface elevations at or below the 100-year frequency flood elevation.

"Floodway", for the six counties including Cook, DuPage, Kane, McHenry and Will, means the channel and that portion of the floodplain adjacent to a stream or watercourse as designated by the Illinois Department of Natural Resources pursuant to Section 18q of the Rivers, Lakes, and Streams Act [615 ILCS 5/18q], which is needed to store and convey the anticipated future 100-year frequency flood discharge with no more than 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10% increase in velocities. [615 ILCS 5/18q(d)(1)] For the remaining 96 counties, "Floodway" means the channel of a river, lake or stream and that portion of the adjacent land area that is needed to safely store and convey flood waters. Where floodways have been delineated for regulatory purposes, the mapped lines show the floodway encroachment limits and will be used. For other areas, floodway limits will be estimated, using hydrologic and hydraulic calculations, to preserve adequate conveyance

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and storage so that stage increases for the 100-year frequency flood would not exceed 0.1 foot.

"Gravel" or "Sand and gravel" means unconsolidated materials that contain a matrix (particles of two millimeters or less) that is consistent with the definition of "sand" and particles larger than two millimeters in size.

"Karst area" means an area with a land surface containing sinkholes, large springs, disrupted land drainage, and underground drainage systems associated with karstified carbonate bedrock and caves or a land surface without these features but containing a karstified carbonate bedrock unit generally overlain by less than 60 feet of unconsolidated materials. [510 ILCS 77/10.24]

"Karstified carbonate bedrock" means a carbonate bedrock unit (limestone or dolomite) that has a pronounced conduit or secondary porosity due to dissolution of the rock along joints, fractures, or bedding plains. [510 ILCS 77/10.26]

"Lagoon" or "Earthen livestock waste lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon does not include structures such as manufactured slurry storage structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10.25]

"Licensed Professional Engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. [415 ILCS 5/57.2]

"Licensed Professional Geologist" means an individual who is licensed under the laws of the State of Illinois to engage in the practice of professional geology in Illinois. [225 ILCS 745/15]

"Livestock management facility" means any animal feeding operation, livestock shelter, or on-farm milking and accompanying milk-handling area. Two or more livestock management facilities under common ownership, where the facilities are not separated by a minimum distance of 1/4 mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. Livestock management facilities at educational institutions, livestock pasture operations, facilities where animals are housed on a temporary basis such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities are not subject to the Livestock Management Facilities Act or the requirements of this Part. [510 ILCS 77/10.30]

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"Livestock shelter" means any covered structure, including but not limited to livestock houses or barns, in which livestock are enclosed at any time.

"Livestock waste" means livestock excreta and associated losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]

"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership and where the facilities are not separated by a minimum distance of 1/4 mile shall be considered a single livestock waste handling facility. [510 ILCS 77/10.40] Livestock waste handling facilities at educational institutions, livestock pasture operations, facilities where animals are housed on a temporary basis, such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities, are not subject to the Livestock Management Facilities Act or the requirements of this Part.

"Maintained" means, with reference to a livestock waste lagoon, that the livestock waste lagoon is inspected (including but not limited to inspection for burrow holes, trees and woody vegetation, proper freeboard, erosion, settling of berm, berm top integrity, leaks, and seepage) and preventive action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances.

"Modified" means structural changes to a lagoon that increase its volumetric capacity. [510 ILCS 77/10.43]

"New facility" means a livestock management facility or a livestock waste handling facility the construction or expansion of which is commenced on or after May 21, 1996 (the effective date of the Livestock Management Facilities Act). Expanding a facility where the fixed capital cost of the new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility shall not be deemed a new facility as used in the Livestock Management Facilities Act. [510 ILCS 77/10.45] For facilities that have ceased operation on or after July 13, 1999, commencement of operations at a facility that has livestock shelters left intact and that has completed the requirements imposed under Section 13(k) of the Livestock Management Facilities Act [510 ILCS 77/13(k)] and Section 900.508 of 8 Ill. Adm. Code 900 and that has been operated as a livestock management facility for 4 consecutive

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months at any time within the previous 10 years shall not be considered a new or expanded livestock management or waste handling facility. [510 ILCS 77/13(k)] For facilities that have ceased operation prior to July 13, 1999, commencement of operations at a facility that has livestock shelters left intact and that has been operated as a livestock management facility or livestock waste handling facility for 4 consecutive months at any time with previous 10 years shall not be considered a new or expanded livestock management or waste handling facility.

"Non-farm--residence" means--any--residence--which--is--not--a--farm residence. [510 ILCS 77/10.47]

"Occupied residence" means a house or other type of shelter that is intended or used for human occupancy and has been occupied by humans for more than a total of six months in the last two years at that location. For the purposes of this definition, intended or used for human occupancy means running water and sanitation are provided within the residence.

"Owner or operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste handling facility. [510 ILCS 77/10.50]

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Placed in service" means the placement of livestock waste in a livestock waste lagoon upon the completion of construction or modification in accordance with the requirements of this Part.

"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week. [510 ILCS 77/10.60] The existence of a populated area shall be determined by identifying the area around the livestock management or livestock waste handling facility delineated by a distance equal to the applicable setback distance and identifying the number of residences or the existence of a non-farm business or the existence of a common place of assembly within that area. For the purpose of setback requirements, common places of assembly or non-farm businesses include but are not limited to churches, hospitals, schools, day-care centers, manufacturing companies, and managed-for-recreation or conservation purposes, museums, camps, parks, retail and wholesale facilities, and shopping centers. A common place of assembly or a non-farm business includes places that operate less than 52 weeks per year such as

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schools with seasonal vacation periods and businesses or other places which experience seasonal shutdowns, and parks, camps, and recreational areas which experience seasonal shutdowns or reduced attendance during a portion of the calendar year provided that such places are frequented by at least 50 persons at least once per week during the portions of the year when seasonal shutdowns or reductions in attendance do not occur.

"Residence" means a house or other structure, including all attachments to the house or structure, which is used as a place of human habitation.

"Sand" means unconsolidated materials, where 70% or more of the particles are of size 0.06 millimeters to 2.00 millimeters, and which according to the USDA soil texture classification scheme includes soil textures of sand, and loamy sand, and portions of sandy loam and sandy clay loam.

"Serviced" means, with reference to a livestock waste lagoon, that corrective action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances, including but not limited to removal or repair of burrow holes, trees and woody vegetation, feedboard level, erosion, settling of berm, beam-top maintenance, leaks, and seepage.

"Void" means an underground opening generally produced by dissolution of rock in a karst area.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.104 Incorporations by Reference

- a) The Board incorporates the following materials by reference:
- 1) APHA. American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005, (202) 789-5600, "Standard Methods for the Examination of Water and Wastewater", 19th Edition, 1995.
 - 2) ASAE. American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659, (616) 429-5585: "Manure Storages", ASAE Standards 1998, ASAE EP403.2, December 1997, pp. 649-652.
- "Design of Anaerobic Lagoons for Animal Waste Management", ASAE Standards 1992, ASAE-EP403.17-1992, pp. 490-500.
- "Design of Anaerobic Lagoons for Animal Waste Management", ASAE Standards 1998 1993, ASAE EP403.2, August 1993, pp. 656-659 543-546.
- 3) IDNR-ISGS, Illinois Department of Natural Resources-Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL

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61820-6964, (217) 333-4747, "Karst Terrains and Carbonate Rocks of Illinois", Illinois Map 8, 1997.

- 4) MWPS, Midwest Plan Service, 122 Davidson Hall, Iowa State University, Ames, IA 50011-3080, (515) 294-4337: "Livestock Waste Facilities Handbook" MWPS-18, 3rd Edition, 1993. "Concrete Manure Storages Handbook" MWPS-36, 1st Edition, 1994. "Circular Concrete Manure Tanks" Technical Resource TR-9, March 1998.

- 5) NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA Publication No. EPA-600/R-93/100 (August 1993), Doc. No. PB 94-120821.

- 6) USDA-NRCS. United States Department of Agriculture - Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820: "Waste Holding Pond", Illinois Field Office Technical Guide, Section IV, IL425, p. 5, June 1992. "Waste Storage Structure", Illinois Field Office Technical Guide, Section IV, IL313, p. 6, June 1992.

"Waste Treatment Lagoon", Illinois Field Office Technical Guide, Section IV, IL359, p. 5, June 1992.

- b) This Section incorporates no later amendments or editions, but does include errata sheets specific to the referenced document.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.105 Recordkeeping (Repealed)

- a) The Department shall maintain a file for all facilities registering or otherwise filing documents with the Department under these regulations.
- b) The file shall contain all registration materials along with all supporting data and justifications, records of Department certification and determinations, groundwater monitoring results if required, waste management plans (if required), and any other information submitted to the Department by the owner or operator of a facility.
- c) Copies of materials in the file for a registered facility shall be available for public inspection.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.106 Alternatives, Modifications and Waivers

- a) All requests for alternatives, modifications, and waivers to these

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regulations, where allowed by Section 13(e) and 15(a) of the Act [510 ILCS 77/13(e), 15(a)] ~~is that--and--of--the--Act--(510-1B68-77/15(a)7 fe) or this Part (Sections--506-202(d)7--506-204(h)7--506-205(f)7 506-206(f)7--506-209(a)7)27~~ shall be made in writing to the Department. Construction may not begin or continue until the request for alternative, modification, or waiver is granted.

b) Each request for an alternative, modification, or waiver shall contain a certification from a Licensed Professional Engineer or Licensed Professional Geologist, as relevant, that the grant of the modification is at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the stated requirements or that the alternative or waiver is at least as protective as the stated requirements.

c) The Department shall notify the applicant in writing of its determination within 30 days after receipt of the request for an alternative, modification, or waiver. To grant the requested alternative, modification, or waiver, the Department must determine that the modification is at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the stated requirements or that the alternative or waiver is at least as protective as the stated requirements.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR THE DESIGN AND CONSTRUCTION OF LIVESTOCK WASTE LAGOONS

Section 506.201 Applicability

This Subpart shall apply to any new or modified lagoon, the design of which has not been approved by the Department prior to the effective date of this Part. The standards and specifications for livestock waste lagoon construction contained in this Subpart shall be utilized in the design plans and construction of the lagoon in accordance with the registration of lagoons required in Subpart F of 8 Ill. Adm. Code 900.

a) ~~This Subpart applies to any lagoon that is new or modified and has not been placed in service as of the effective date of this Part.~~

b) ~~For the purposes of this Subpart the number of animal units at a livestock management facility is the maximum design capacity of the livestock management facility.~~

c) ~~In addition, a lagoon registered and certified pursuant to the emergency rules adopted in R97-14 at 20-III-Reg--14903, effective October 31, 1996 and the emergency rules adopted in R97-14 at 21-III-Reg-4313, effective March 31, 1997, shall be considered as registered and certified pursuant to this Subpart.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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include the additional requirements of Section 506.206 of this Subpart.

- f) If the results of the soil boring conducted pursuant to Section 506.202(b) of this Subpart indicate the proposed lagoon is to be located in a karst area or if the proposed lagoon is to be located within an area designated as "Sink hole areas" on "Karst Terrains and Carbonate Rocks of Illinois", IDNR-IGS Illinois Map 8, the following requirements shall be met:

- 1) The Department shall conduct a visual inspection of the surrounding area to determine the presence of natural depressions during the pre-construction site inspection as required pursuant to 8 Ill. Adm. Code 900.604(a). Construction may not occur within 400 feet of a natural depression in a karst area; and
- 2) The Licensed Professional Engineer or Licensed Professional Geologist shall evaluate the results of the soil boring constructed pursuant to subsection (b) of this Section. If, as a result of the soil boring, a void of 1 foot or greater in vertical distance is discovered, the following requirements shall be met:

- A) The Department may require additional borings to determine the extent of the void;
- B) Notwithstanding the other requirements of this Subpart, the owner or operator shall submit to the Department a plan for the design of the lagoon which shall include the additional design requirements as set forth in Section 506.207 of this Part and shall include any additional design requirements deemed necessary by the Licensed Professional Engineer; and
- C) The Department shall review and approve the plan required pursuant to subsection (f)(2)(B) of this Section prior to construction. The Department may also require additional design criteria before the plan is approved and construction may begin.

If, as a result of the soil boring, no voids of 1 foot or greater in vertical distance are discovered, the design shall include the additional requirements as set forth in Section 506.207 of this Subpart.

- ge) The site investigation in accordance with subsection (b), (c), or (d), (e), or (f) of this Section shall be conducted under the direction of a Licensed Professional Engineer or Licensed Professional Geologist. Upon completion of the site investigation as required under subsection (b)-(f) or (d) of this Section, the supervising licensed Professional Engineer or licensed Professional Geologist shall certify that the site investigation meets all the applicable requirements of this Section; and whether aquifer material shall be considered present (or not present) within 50 feet of the planned bottom of the lagoon in accordance with Section 506.203 of this Part. Such certification shall include all supporting data and justification.

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.203 Registration (Repealed)

- a) Prior to new construction or modification of any earthen livestock waste lagoon after the effective date of this Part, such earthen livestock waste lagoon shall be registered by the owner or operator with the Department on a form provided by the Department in accordance with the requirements of this Section. Lagoons constructed prior to the effective date of this Part may register with the Department at no charge. (510-1589-77/15(b))
- b) The registration form, accompanied by a \$50 fee, shall include the following:
- 1) Name(s) and address(es) of the owner and operator who are responsible for the livestock waste lagoon;
 - 2) General location of lagoon;
 - 3) Design construction plans and specifications (including a lagoon plot plan with dimensions and elevations);
 - 4) Specific location information (noted on a facility site map or the lagoon plot plan):
 - A) The location and distance to the nearest private or public potable well;
 - B) The location and distance to the closest occupied private residence (other than any occupied by the owner or operator);
 - C) The location and distance to the nearest stream;
 - D) The location and distance to the nearest populated area;
 - E) The location and distance to the nearest abandoned or plugged well, drainage well or injection well; and
 - F) The location of any subsurface drainage lines within 100 feet of the lagoon.
 - 5) Anticipated beginning and ending dates of lagoon construction;
 - 6) Type of livestock and number of animal units;
 - 7) A certification by the supervising licensed Professional Engineer or licensed Professional Geologist, accompanied by supporting justification and data, certifying that the site investigation meets all the applicable requirements of Section 506.202 of this Part; whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon; and
 - 8) Where applicable, a copy of the synthetic liner manufacturer's compatibility statement and other maintenance guidelines. (510-1589-77/15(b))
 - c) The Department, upon receipt of a livestock waste lagoon registration form, shall review the form to determine that all required information has been provided. The person filing the registration shall be notified within 15 working days of receipt by the Department that registration is complete or that clarification information is needed.

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- ~~No later than 10 working days after the receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification information is needed. (510-116S-77/15(b))~~
- d) ~~The Department may, as a condition of the issuance of a livestock waste lagoon registration, conduct periodic site inspections of a livestock waste lagoon to assess its degree of compliance with the requirements of the Livestock Management Pesticides Act (510-116S-77) and the requirements of this Part. The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner or operator. (510-116S-77/15(b))~~
- e) ~~Construction shall not begin until 30 days after submittal of a registration form by certified mail to the Department. (510-116S-77/15(b))~~

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.204 Lagoon Design Standards

- a) The owner or operator of any livestock waste lagoon subject to this Subpart Part shall construct or modify the lagoon in accordance with:
- 1) "Design of anaerobic lagoons for animal waste management", ASAE Engineering Practice 403-1, as updated by ASAE Engineering Practice 403.2; or the guidelines published by the United States Department of Agriculture's Natural Resource Conservation Service titled "Waste Treatment Lagoon", which are incorporated by reference in 35 Ill. Adm. Code 506.104; and
 - 2) The additional design standards specified in subsections (c) through (h) of this Section. (510 ILCS 77/15(a))
- b) ~~The Department may require changes in design or additional requirements to protect groundwater, such as extra liner depth or synthetic liners, when it appears groundwater could be impacted. (510 ILCS 77/15(a))~~
- c) The owner or operator shall conduct a site investigation in accordance with Section 506.202 of this Part to determine if aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon.
- d) The owner or operator shall, as a part of the lagoon design, include the use of a liner and implement groundwater monitoring in accordance with following conditions:
- 1) If the uppermost aquifer material is located above or within 20 feet of the lowest point of the planned lagoon bottom (as measured from the top of any proposed liner), then the lagoon design shall include both a liner and groundwater monitoring.
 - 2) If the uppermost aquifer material is located between 20 to 50 feet from the lowest point of the planned lagoon (as measured from the top of any proposed liner), then the lagoon design shall

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- include a liner, but no groundwater monitoring is required.
- 3) If no aquifer material is located within 50 feet from the lowest point of the planned lagoon (as measured from the top of any proposed liner), then the lagoon design shall require neither a liner nor groundwater monitoring.
- e) If the owner or operator determines that a liner is required for the lagoon pursuant to this Section, the design of the lagoon shall include an in-situ soil liner, borrowed clay or clay/bentonite mixture, or a synthetic liner meeting the requirements of Section 506.204 506-205 of this Part.
- f) If the owner or operator determines that groundwater monitoring is required for the lagoon pursuant to this Section, the design of the lagoon shall include the implementation of a groundwater monitoring program in accordance with Section 506.205 506-206 of this Part and Subpart F of 8 Ill. Adm. Code 900.
- g) Any livestock waste lagoon subject to the provisions of this Part shall meet or exceed the following:
- 1) Berm:
 - A) The minimum berm top width shall be 8 feet;
 - B) The berm may contain no outlet piping that extends through the berm unless the piping discharges to another lagoon or is a component of a recirculating flush system;
 - 2) Berm slope:
 - A) Exterior and normally exposed interior (above the liquid level elevation corresponding to the summation of the sludge volumes and minimum design volume) earthen walls shall have side slopes not steeper than a 3 to 1 ratio of horizontal to vertical and a vegetative cover shall be established on any exposed berm areas and kept mowed or otherwise maintained to eliminate erosion or other berm deterioration;
 - B) Interior berm earthen walls below the liquid level elevation corresponding to the summation of the sludge volumes and minimum design volume shall have side slopes not steeper than a 3 to 1 ratio of horizontal to vertical; or a 2 to 1 ratio of horizontal to vertical if designed by a Licensed Professional Engineer and maintained to eliminate berm deterioration;
 - 3) The lagoon's total design volume shall be not less than the volume calculated as the summation of the following:
 - A) A minimum design volume, as calculated pursuant to subsection 5.4.1.1, ASAE EP403.2, ASAE Standards 1998 1993, pp. 656-659 543-545;
 - B) A livestock waste volume, which shall be sufficient to store the waste generated by the facility for a period not less than 270 days as determined in accordance with ASAE EP403.2, ASAE Standards 1998 1993, p. 656 543;
 - C) Runoff and wash down volumes, based on a 6-inch rainfall covering the lagoon surface and any other areas such as open

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lots, roofs or other surfaces where collected precipitation is directed into the lagoon plus the volume of any wash down liquids utilized within the facility which are also directed into the lagoon; and

- D) A sludge accumulation volume, as calculated pursuant to subsection 5.4.1.4, ASAE EP403.2, ASAE Standards 1998 1993, p. 658 545;

- 4) In addition to the lagoon's total design volume, a freeboard shall be provided as follows:

- A) For lagoons serving a livestock management facility with a maximum design capacity of less than 300 animal units and not collecting runoff from areas other than the exposed surface of the lagoon (including associated interior berm slopes and flat berm top areas), the top of the settled embankment shall be not less than 1 foot above the fluid surface level of the lagoon total design volume; or

- B) For all other lagoons, the top of the settled embankment shall be not less than 2 feet above the fluid surface level of the lagoon total design volume;

- 5) Subsurface drainage lines in the immediate area of the livestock waste lagoon shall be removed or relocated to provide for a minimum separation distance of not less than 50 feet between the outermost extent of the lagoon (exterior toe of the berm) and the subsurface drainage line;

- 6) The minimum separation distance between the outermost extent of a lagoon (exterior toe of the berm) and any potential route of groundwater contamination, as defined in the Illinois Environmental Protection Act [415 ILCS 5], shall be not less than 100 feet. In addition, the minimum separation distance between the outermost extent of a lagoon (exterior toe of the berm) and a non-potable well, an abandoned or plugged well, drainage well or injection well shall be not less than 100 feet;

- 7) The design and construction of the lagoon shall include the installation of a lagoon liquid level board or staff gauge within the interior of the liquid storage volume. The liquid level board or staff gauge shall include a mark at the liquid level elevation corresponding to the summation of the sludge volume and minimum design volume and shall be designated as the "STOP PUMPING" elevation. The liquid level board or staff gauge shall also be marked at the liquid level elevation corresponding to the summation of the sludge volume, minimum design volume, runoff and wash down volumes, and livestock waste volume and shall be designated as the "START PUMPING" elevation;

- 8) The livestock waste supply to a single-stage lagoon must be below the minimum design volume level; [510 ILCS 77/25(b)(2)] and water shall be added to a newly-constructed or modified lagoon to at least 60% of the design volume prior to the initial addition of waste; and

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- 9) The location of the lagoon and the associated livestock management facility shall be in compliance with all setback provisions of the Illinois Environmental Protection Act [415 ILCS 5], the Livestock Management Facilities Act [510 ILCS 77], and the rules promulgated thereunder.

- h) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. [510 ILCS 77/15(a)] The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. 1510--1565 77/15(a)†

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.205 Liner Standards

- a) The design of a liner constructed from in-situ soils, borrowed clay or a clay/bentonite mixture, or a synthetic liner pursuant to Section 506.203(d) 506:204† of this Part shall comply with the requirements of this Section.

- b) A liner constructed using in-situ soil or borrowed clay or clay/bentonite mixtures shall meet the following standards:

- 1) The minimum liner thickness shall be 2 feet;

- 2) The liner shall be constructed in lifts not to exceed 6 inches in thickness;

- 3) The liner shall be compacted to achieve a hydraulic conductivity equal to or less than 1×10^{-7} centimeters/second; and

- 4) The construction and compaction of the liner shall be carried out to reduce void spaces and allow the liner to support the loadings imposed by the waste disposal operation without settling.

- c) Any synthetic liner used in the construction of a livestock waste lagoon shall meet the following standards:

- 1) The liner shall be designed to perform equivalent to or better than a liner that conforms to subsection (b) of this Section;

- 2) The liner manufacturer shall provide to the owner or operator the liner maintenance guidelines and shall certify that the liner is chemically compatible with:

- A) The livestock waste being stored; and

- B) The supporting soil materials;

- 3) The liner shall be supported by a compacted base free from sharp objects;

- 4) The liner shall have sufficient strength and durability to function at the site for the design period under the maximum expected loadings imposed by the waste and equipment and stresses imposed by settlement, temperature, construction and operation;

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- 5) The liner seams shall be made in the field according to the manufacturer's specifications. All sections shall be arranged so that the use of field seams is minimized and seams are oriented in the direction subject to the least amount of stress; and
- 6) The owner or operator shall maintain a copy of the manufacturer's compatibility statement and liner installation and maintenance guidelines at the facility.
- d) The design, construction and installation of the liner in accordance with this Section shall be conducted under the direction of a Licensed Professional Engineer. Upon completion of construction or installation of the liner, the supervising Licensed Professional Engineer shall certify, pursuant to 8 Ill. Adm. Code 900.605(a), that the liner meets all the applicable requirements of this Section. Such certification shall include all supporting justification and data.
- e) The owner or operator of a livestock waste lagoon shall submit to the Department a copy of the Licensed Professional Engineer's Certification prior to placing the lagoon in service in accordance with 8 Ill. Adm. Code 900.605 Section 506-207-of-this-Part.
- f) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. [510 ILCS 77/15(a)] The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. [510--IBES 77/15(a)]

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.206 Groundwater Monitoring

- a) The owner or operator of any livestock waste lagoon required to implement groundwater monitoring pursuant to Section 506.203(d) 506-204(a) of this Part shall implement a monitoring program which meets the requirements of this Section and Subpart F of 8 Ill. Adm. Code 900.
- b) The groundwater monitoring network shall consist of a minimum of three monitoring wells located on the basis of local groundwater conditions within 20 feet of the exterior toe of the berm, with at least two of the required wells shall be located down gradient of the lagoon based on local groundwater conditions. For the purposes of groundwater monitoring network design, multiple cell lagoons shall be considered as a single lagoon.
- c) The monitoring wells shall be installed in accordance with the following:
- 1) The requirements of Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.170;

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- 2) The top of the well screen shall be set at the estimated seasonal low water table elevation;
- 3) Monitoring wells shall utilize a minimum of a five foot screened interval; and
- 4) The screen shall be set in a sand pack which extends at least one foot above and one foot below the screened interval of no less than five feet and no greater than seven feet.
- d) The owner or operator shall sample the wells, analyze the samples, and report the results in accordance with the requirements of Subpart F of 8 Ill. Adm. Code 900.
- e) Prior to placing the lagoon in service, water level measurements shall be made at each monitoring well to establish the local groundwater gradient at the lagoon site.
- f) The owner or operator shall sample each monitoring well at least once prior to placing the lagoon in service and at least quarterly thereafter. The samples shall be collected and analyzed consistent with the methods specified in Section 506-104(a)(1) and (3) of this Part for each of the following:
- 1) Nitrate-nitrogen;
 - 2) Phosphate-phosphorus;
 - 3) Chloride;
 - 4) Sulfate;
 - 5) Ammonia-nitrogen;
 - 6) Escherichia coli or fecal coliform; and
 - 7) Fecal Streptococcus.
- g) The Department may collect and analyze samples or split samples from monitoring wells installed pursuant to this Section at the Department's discretion. The Department shall provide notice to the owner or operator of the livestock waste lagoon of such activity and shall comply with reasonable animal health protection procedures as requested by the owner or operator. [510-IBES-77/15(b)]
- h) Analytical results as determined in subsection (f) of this Section shall be submitted to the Department within 45 days after sample collection and shall include a discussion relative to the significance of the results. Such discussion of significance shall include:
- 1) A comparison of the results to the initial sampling made prior to the lagoon being placed in service; and
 - 2) A description of any proposed response action necessary to mitigate potential impacts to groundwater.
- i) The Department shall review the submittal provided pursuant to subsection (g) of this Section, evaluate the proposed response action and provide a time frame for the correction of any identified deficiencies. As a result of the evaluation, the Department may approve or modify the monitoring program or response action including but not limited to the following:
- 1) Increase or decrease the monitoring well sampling frequency;
 - 2) Add or delete items from the list of sample analytes; or
 - 3) Require changes to the design, construction or operation of the

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lagoon--or--changes--in--the--operation--of--the--livestock--management facility--which--shall--be--implemented--by--the--owner--or--operator within--the--time--frame--established--by--the--Department.

- d) Failure--of--the--owner--or--operator--to--submit--the--information--required pursuant--to--subsection--(f)--of--this--Section--or--to--implement--the response--action--approved--or--modified--by--the--Department--shall--be considered--a--failure--to--construct--a--lagoon--in--accordance--with--the requirements--of--this--Part--and--shall--subject--the--owner--or--operator--to penalties--set--forth--in--this--Part--and--the--livestock--Management Facilities--Act--(510-116S-77).

- e) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. [510 ILCS 77/15(a)] The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. {510-116S 77/15(a)}

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.207 Certification-of Construction in a Karst Area

- a) A new earthen livestock waste lagoon constructed in a karst area shall be designed to prevent seepage of the stored material to groundwater.

Owners or operators of proposed facilities shall consult with the local soil and water conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. [510 ILCS 77/15(a-5)(2)]

- b) The portion of any lagoon, subject to the provisions of this Subpart, located below the pre-construction soil surface level and constructed in a karst area shall be designed and constructed utilizing a rigid material such as concrete or steel.

- c) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part.

- a) The Department shall inspect an earthen livestock waste lagoon at least once during the pre-construction, construction or post-construction phase and shall require modifications when necessary to ensure the project will be in compliance with the requirements of this Part. {510-116S 77/15(b)}

- b) Upon completion of construction or installation of a line, the

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supervising--Licensed--Professional--Engineer--shall--certify--that--the lagoon--meets--all--the--applicable--requirements--of--Section--506.205--of--this Part. Such certification shall be submitted to the Department prior to placing the lagoon in service and shall include supporting data and justification:

- c) Upon completion of the construction or modification, but prior to placing the lagoon in service, the owner or operator of the livestock waste lagoon shall certify on a form provided by the Department that the lagoon has been constructed or modified in accordance with the standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act (510-116S-77) and the requirements of this Part and that the information provided on the registration form and other supporting documents as required by this Part is correct. The certification notice to the Department shall include a certification statement and signature. {510-116S 77/15(b)}
- d) The owner or operator of the lagoon may proceed to place the lagoon in service no earlier than 10 working days after submitting to the Department a certification of compliance statement. {510-116S 77/15(b)}

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.208 Construction in a Flood Fringe Area Failure-to-Register-or Construct-in-Accordance-with-Standards

A new earthen livestock waste lagoon may be constructed within the portion of a 100-year floodplain that is within the flood fringe and outside the floodway provided that the facility is designed and constructed so that livestock waste is not readily removed during flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5], Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). [510 ILCS 77/15(a-5)(1)] The following criteria shall be incorporated into the design of a lagoon proposed for construction in the flood fringe of a 100-year floodplain:

- a) The lagoon berms shall be designed and constructed to withstand the hydrostatic pressures from flood waters that may be exerted on the berms during a flood event.

- b) The elevation of the lowest point on the berm top shall be at the summation of the elevation of the 100-year flood plus a freeboard. The freeboard height shall be a minimum of two feet.

- c) For lagoons with unequal length and width dimensions, the lagoon shall be oriented with the longest dimension parallel to the expected direction of floodwater flow.

- d) Any monitoring wells installed pursuant to Section 506.205 of this Subpart shall be mounted flush with the surrounding soil surface or otherwise physically protected from the flood waters.

- e) The owner or operator of the livestock waste handling facility may,

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upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

a) The owner or operator of any earthen livestock waste lagoon subject to registration that has not been registered or constructed in accordance with standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act (510-15CS-77/15) and in this Part shall, upon being identified as such by the Department, be given written notice by the Department to register and certify the lagoon within 10 working days after receipt of the notice. The Department may inspect such lagoon and require compliance in accordance with subsections (a) and (b) of Section 15 of the Livestock Management Facilities Act (510-15CS-77/15) and this Part. If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice, the Department may issue a cease and desist order until such time as compliance is obtained with the requirements of Section 15 of the Livestock Management Facilities Act (510-15CS-77/15) and this Part. Failure to construct the lagoon in accordance with the construction plan and Department recommendations is a business offense punishable by a fine of not more than \$5,000. (510-15CS-77/15(f))

b) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice which addresses violations occurring during lagoon construction, a cease and desist order to stop construction may be issued by the Department. Changes shall be made to the lagoon by the owner or operator to ensure construction according to the provisions of the Livestock Management Facilities Act (510-15CS-77/15) and this Part. The cease and desist order shall be canceled by the Department upon submission of the registration materials by the lagoon owner or operator to the Department and after the Department's review of the construction plans and specifications and lagoon registration materials and after determination of compliance with the Livestock Management Facilities Act and this Part by the Department.

c) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice addressing violations which occur after completion of lagoon construction, an operational cease and desist order may be issued by the Department. Any necessary changes shall be made to the lagoon by the lagoon owner or operator to comply with the Livestock Management Facilities Act and this Part. The operational cease and desist order shall be canceled by the Department after the Department determines compliance with the Livestock Management Facilities Act and this Part.

(Source: Amended at 25 Ill. Reg. _____, effective

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Section 506.209 Lagoon Closure and Ownership Transfer (Repealed)

a) When any earthen livestock waste lagoon is removed from service, it shall be completely emptied. Appropriate closure procedures shall be followed as determined by the requirements of this Part. (510-15CS-77/15(e))

1) In the event that any earthen livestock waste lagoon is removed from service, the requirements contained in Section 15(e) of the Livestock Management Facilities Act (510-15CS-77/15(e)) shall be met. The owner or operator shall notify the Department in writing when a lagoon is removed from service. Within 60 days after removal of the lagoon from service, the owner or operator shall submit a lagoon closure plan to the Department for review and approval. If no lagoon closure plan is received by the Department within 60 days, the Department shall send the lagoon owner a notice of default.

2) The lagoon closure plan shall provide for the following:

A) The sampling, analysis, and reporting of results of all remaining livestock waste, sludge, and minimum six inch thickness of soil from throughout the lagoon interior consistent with the requirements of Section 506.312 of this Part;

B) The removal of all remaining livestock waste including sludge, the removal of a minimum six inch thickness of soil from throughout the lagoon interior and the application of these materials to crop land at agronomic rates consistent with the provisions of the site livestock waste management plan or their otherwise proper disposal;

C) The removal of all associated appurtenances including but not limited to transfer lines, ramps, pumping ports and other waste conveyance structures;

B) The proper management of any impounded precipitation in the remaining excavation if it is not immediately filled and the area immediately returned to its pre construction condition. The proper abandonment of any monitoring wells installed pursuant to Section 506.206 of this Part, which shall be conducted pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120, and

P) A proposed time frame for the completion of the closure activities no greater than two years from the cessation of operation date unless the lagoon is maintained or serviced.

3) The Department shall review and approve, reject or request additional information relative to the lagoon closure plan. The Department may also grant a waiver to any of the before stated closure requirements that will permit the lagoon to be used for an alternative purpose. (510-15CS-77/15(e))

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- 4) Upon completion of the lagoon closure activities as prescribed by the Department approved closure plan, the owner or operator shall notify the Department. The Department shall conduct a site inspection and issue a written notification of closure completion or inform the owner or operator of any unresolved closure issues.
- b) A lagoon is considered removed from service when:
- 1) The Department has ordered the lagoon removed from service under Section 506-620 of this Part;
 - 2) A tribunal of competent jurisdiction has ordered the lagoon closed or ordered the owner or operator to cease operations;
 - 3) The lagoon no longer receives livestock waste and the lagoon is not being serviced or maintained;
 - 4) The owner fails to extend the term for which evidence of financial responsibility is shown as required in Section 506-602(b) of this Part; or
 - 5) The owner or operator informs the Department in accordance with subsection (a)(1) of this Section that the lagoon has been removed from service.
- c) Upon a change in the ownership of a registered earthen livestock waste lagoon, the new owner shall notify, in writing, the Department of the change within 30 working days of the closing of the transaction. [510 ILCS 1605-77/15(e)]

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.210 Secondary Containment

Notwithstanding any other requirement of this Subpart or 8 Ill. Adm. Code 900, every earthen livestock waste lagoon constructed pursuant to this Subpart shall include the construction of a secondary berm, filter strip, grass waterway, or terrace, or any combination of those, outside the perimeter of the primary berm if an engineer licensed under the Professional Engineering Practice Act of 1989 and retained by the registrant determines, with the concurrence of the Department, that construction of such a secondary berm or other feature or features is necessary in order to ensure against a release of livestock waste from the lagoon that encroaches or is reasonably expected to encroach upon land other than the land occupied by the livestock waste handling facility of which the lagoon is a part; or that enters or is reasonably expected to enter the waters of this State; or that enters or may reasonably be expected to enter a natural depression in a karst area and shall be so designed. [510 ILCS 17/15(a)] The following criteria shall be incorporated into the design of a system utilized for secondary containment:

- a) A grass waterway constructed, installed, or utilized for the purposes of this Section shall meet or exceed the following:

- 1) A grass waterway shall be designed and constructed to transfer the maximum expected flow rate of livestock waste that may reasonably be expected to be released from the lagoon;

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- 2) A grass waterway shall direct the flow of livestock waste away from the lagoon berm to a filter strip, secondary berm, terrace, or combination of these; and
 - 3) Vegetation shall be established and maintained to provide adequate ground cover.
- b) A filter strip constructed, installed, or utilized for the purposes of this Section shall meet or exceed the following:
- 1) A filter strip shall be designed and constructed to function at the maximum expected hydraulic loadings that may reasonably be expected to come from the lagoon; and
 - 2) Vegetation shall be established and maintained to provide adequate ground cover.
- c) A secondary berm constructed, installed, or utilized for the purposes of this Section shall meet or exceed the following:
- 1) The storage volume created as a result of the construction of a secondary berm shall be of sufficient capacity to contain the portion of the lagoon liquid that may reasonably be expected to be released from the lagoon plus any accumulated precipitation; and
 - 2) A vegetative cover shall be established. The area shall be maintained by periodic mowing, the removal of woody plant species, or other measures to prevent erosion and berm deterioration.
- d) A terrace constructed, installed, or utilized for the purposes of this Section shall meet or exceed the following:
- 1) The terrace shall direct the livestock waste to a filter strip or grass waterway constructed or installed pursuant to the requirements of this subsection; and
 - 2) Vegetation shall be established and maintained to provide adequate ground cover on those portions of the terrace where crops are not grown.
- e) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part.

(Source: Added at 25 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR THE DESIGN AND CONSTRUCTION OF LIVESTOCK WASTE HANDLING FACILITIES OTHER THAN LAGOONS WASTE-MANAGEMENT-PLAN

Section 506.301 Applicability Purpose

The applicability of this Subpart shall be as follows:

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- 2) If bedrock is encountered, additional soil samplings may be necessary to verify the presence of aquifer material or karstified carbonate bedrock;
- 3) Continuous samples shall be recovered from each soil sampling; and
- 4) Upon completion, any boring used for sampling shall be properly abandoned and sealed pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120. Any excavation used for sampling that is within the construction boundaries of the livestock management facility or livestock waste handling facility shall be restored by the addition of soil compacted in lifts no greater than 6 inches.

c) If the Department determines that additional soil samplings are necessary to ensure the protection of the groundwater, surface water or the structural integrity of the livestock waste handling facility, the Department shall require additional soil samplings.

d) As an alternative to performing the soil sampling required under subsection (b) or (c) of this Section, the owner or operator of the livestock waste handling facility may propose to the Department to utilize alternative information source(s). The Department shall evaluate the proposal; determine whether the alternative information source(s) will result in a site investigation that will be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste handling facility as would have resulted from data resulting from soil borings; and notify the owner or operator of the Department's finding.

e) Notwithstanding the other requirements of this Subpart, if aquifer material is located above or within 5 feet of the lowest point of the livestock waste handling facility, the design of the facility shall include the additional requirements of Section 506.310 of this Subpart.

f) Notwithstanding the other requirements of this Subpart, if the site investigation determines that the livestock waste handling facility is to be located in the flood fringe of a 100-year floodplain, the design of the facility shall include the additional requirements of Section 506.311 of this Subpart.

g) If the proposed livestock waste handling facility is to be located within an area designated as "Sink hole areas" on "Karst Terrains and Carbonate Rocks of Illinois", IDNR-ISGS Illinois Map 8 or if the results of the soil sampling conducted pursuant to Section 506.302(b) of this Subpart indicate the proposed livestock waste handling facility is to be located in a karst area, the following requirements shall be met:

- 1) The Department shall conduct a visual inspection of the surrounding area to determine the presence of natural depressions during the pre-construction site inspection as required pursuant to 8 Ill. Adm. Code 900.505(a). Construction may not occur within 400 feet of a natural depression in a karst area;

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a) Sections 506.303, 506.310, 506.311, and 506.312 of this Subpart shall apply to the newly constructed livestock waste handling components of new livestock waste handling facilities, other than livestock waste lagoons, the design of which has not been approved by the Department prior to the effective date of this Part.

b) Sections 506.303, 506.304, 506.305, 506.306, 506.307, 506.308, and 506.309 of this Subpart shall apply the newly constructed livestock waste handling components of new or existing livestock waste handling facilities, other than livestock waste lagoons, the design of which has not been approved by the Department prior to the effective date of this Part.

The standards and specifications for livestock waste handling facility design and construction contained in this Subpart shall be utilized in the design plans and construction of the waste handling facility in accordance with the requirements of Subpart E of 8 Ill. Adm. Code 900.

~~livestock waste management plans shall be prepared by the livestock management facility owners or operators to provide for adequate land area for the proper application of livestock waste at rates not to exceed the agronomic nitrogen demand of the crops to be grown when averaged over a 5-year period (510-1469 777204)(477)~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.302 Site Investigation Scope and Applicability

a) The owner or operator of a livestock waste handling facility shall conduct a site investigation in accordance with the requirements of this Section to determine the following:

- 1) Whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility;

2) Whether the proposed facility is to be located within the floodway or flood fringe of a 100-year floodplain; and

3) Whether the proposed facility is to be located within a karst area or within 400 feet of a natural depression in a karst area.

b) Except for facilities that are proposed to be located within an area designated as "Sink hole areas" on "Karst Terrains and Carbonate Rocks of Illinois", IDNR-ISGS Illinois Map 8, the owner or operator shall obtain soil samples from within the final livestock waste handling facility area or within 20 feet of the livestock waste handling facility boundaries. The sampling shall be performed to determine the presence of aquifer material or karstified carbonate bedrock as follows:

- 1) The soil sampling shall begin at the soil surface and extend to a depth that includes a minimum of 5 feet below the planned bottom of the livestock waste handling facility native soil or to bedrock;

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2) The owner or operator shall perform one or more soil borings which shall be located within the final livestock waste handling facility area or within 20 feet of the livestock waste handling facility boundaries to determine the presence of voids. The boring shall begin at the soil surface and extend to a depth that includes a minimum of 20 feet below the planned bottom of the livestock waste handling facility.

3) Continuous samples shall be recovered from each boring;

4) The Licensed Professional Engineer, Licensed Professional Geologist, or USDA-NRCS representative designated to perform such functions shall evaluate the results of the soil boring. If a void of 1 foot or greater in vertical distance is discovered from the soil boring performed pursuant to subsection (g)(2) of this Section, the following requirements shall be met:

A) The Department may require additional borings to determine the extent of the void;

B) Notwithstanding the other requirements of this Subpart, the owner or operator shall submit to the Department a plan for the design of the facility which shall include the additional design requirements as set forth in Section 506.312 of this Part and shall include any additional design requirements deemed necessary by the Licensed Professional Engineer; and

C) The Department shall review and approve the plan required pursuant to subsection (g)(4)(B) of this Section prior to construction. The Department may also require additional design criteria before the plan is approved and construction may begin.

If, as a result of the soil boring, no voids of 1 foot or greater in vertical distance are discovered, the design shall include the additional requirements as set forth in Section 506.312 of this Subpart.

5) Upon completion of the boring(s) required pursuant to subsection (g) of this Section, the boring(s) shall be properly abandoned and sealed pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120.

b) The site investigation in accordance with subsections (b), (c), (d), (e), (f), and (g) of this Section shall be conducted under the direction of a Licensed Professional Engineer, Licensed Professional Geologist, or a representative of the Natural Resources Conservation Service of the United States Department of Agriculture designated to perform such functions.

a) A waste management plan shall be prepared according to the requirements contained in Section 20 of the Livestock Management Facilities Act (510-1BES-77/20) and in this Subpart. The application of livestock waste to the land is an acceptable, recommended, and established practice in Illinois. However, when livestock waste is not applied in a responsible manner, it may create pollutional

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problems; it should be recognized that, in most cases, if the agronomic nitrogen rate is met, the phosphorus applied will exceed the crop requirements, but not all of the phosphorus may be available for use by the crop; it will be considered acceptable, therefore, to prepare and implement a waste management plan based on the nitrogen rate. (510-1BES-77/20(f))

b) The livestock management facility owner or operator at a facility of less than 1,000 animal units shall not be required to prepare and maintain a waste management plan. (510-1BES-77/20(f))

c) The livestock management facility owner or operator at a facility of 1,000 or greater animal units but less than 7,000 animal units shall prepare, maintain and implement a waste management plan and comply with the following: (510-1BES-77/20(e))

1) For facilities which commence operations or reach or exceed 1,000 animal units after the effective date of this Part, the owner or operator shall prepare, maintain, and implement a waste management plan within 60 working days after commencing operations or exceeding 1,000 animal units.

2) Prior to the expiration of the waste management plan, preparation period, the owner or operator shall submit to the Department a form certifying that a waste management plan has been prepared. The form shall also list the location of the plan.

3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours, and

4) Notwithstanding the above provisions, a livestock management facility subject to this subsection (c) may be operated on an interim basis but not to exceed 6 months after the effective date of this Part to allow for the owner or operator of the facility to develop a waste management plan. (510-1BES-77/20(e))

d) The livestock management facility owner or operator at a facility of 7,000 or greater animal units shall prepare, maintain, implement and submit to the Department the waste management plan for approval (510-1BES-77/20(d)) and comply with the following:

1) For facilities which commence operations after the effective date of this Part, the owner or operator shall submit a waste management plan to the Department. The facility shall not commence operation before the Department approves the plan.

2) For existing facilities that reach or exceed 7,000 animal units through expansion, the owner or operator shall submit to the Department a waste management plan within 60 working days after reaching or exceeding 7,000 animal units for approval by the Department, and

3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours.

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- e) A separate waste management plan shall be developed for each livestock waste handling facility. Livestock waste from each different type of livestock waste storage structure or system shall be accounted for in separate waste management plans or as separate sections of one plan. Waste from different types of storage structures may be applied to the same land provided that the nitrogen rate to obtain targeted crop yield goals is not exceeded.
- f) Notwithstanding the above provisions, a facility owner or operator who prepared a waste management plan pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996 and the emergency rules adopted in R97-14 at 21 Ill. Reg. 43137 effective March 31, 1997, shall be deemed to have prepared a waste management plan pursuant to this Subpart.
- g) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility shall be determined as the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.303 Non-lagoon Livestock Waste Storage Volume Requirements Waste Management Plan-Contents

- a) Livestock waste handling facilities that handle waste in a liquid or semi-solid form shall be designed to contain a volume of not less than the amount of waste generated during 150 days of facility operation at design capacity. [510 ILCS 77/13(a)(1)(B)] In addition, the design of livestock waste storage structures that handle waste in a liquid or semi-solid form shall include the following:
- 1) Runoff volumes, based on a 6 inch rainfall covering the storage structure surface and any other areas where precipitation is directed into the storage structure;
 - 2) Additional wash down liquid volumes; and
 - 3) A freeboard of 2 feet, except for structures with a cover or otherwise protected from precipitation.
- b) Livestock waste handling facilities that handle waste in a solid form shall be sized to store not less than the amount of waste generated during 6 months of facility operation at design capacity. [510 ILCS 77/14(a)(4)]
- c) Pump stations, settling tanks, pumps, piping, or other components of a livestock waste handling facility that temporarily hold or transport waste to a storage facility sized pursuant to this Section shall be exempt from the storage volume requirements of this Section. The design of any livestock waste storage structure required to incorporate a freeboard pursuant to subsection (a) of this Section shall include a liquid level board or staff gauge. The liquid level board or staff gauge shall include a mark corresponding to the

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summation of the livestock waste volume and the additional wash down volume pursuant to subsection (a) of this Section, and shall be designated as the "START PUMPING" elevation.

the Livestock Waste Management Plan shall contain the following items:

- a) Name, address, and phone number of the owner(s) of the livestock facility;
- b) Name, address, and phone number of the manager or operator, if different than the owner(s);
- c) Address, phone number, and plot location of the facility, and directions from nearest post office;
- d) Type of waste storage for the facility;
- e) Species, general size, number of animals, and number of animal units at the facility;
- f) Aerial photos and maps outlining fields available and intended for livestock waste applications with available acreage listed and with residences, non-farm businesses, common places of assembly, streams, wetter, waterways, lakes, ponds, rivers, drainage ditches, and other water sources indicated;
- g) For application fields not owned or rented, copies of waste application agreements between the owner or operator of the livestock facility and the owner of the land where livestock waste will be applied;
- h) An estimate of the volume of waste to be disposed of annually [510 ILCS 77/20(f)(1)];
- i) Cropping schedule for each field for the past year, anticipated crops for the current year, and anticipated crops for the next two years after the current year;
- j) Targeted crop yield goal for each crop in each field;
- k) Estimated nutrient content of the livestock waste;
- l) Livestock waste application methods;
- m) Calculations showing the following:
 - 1) Amount of available livestock waste for application;
 - 2) Amount of nitrogen available for application;
 - 3) Nitrogen loss due to method of application;
 - 4) Amount of plant available nitrogen including mineralization of organic nitrogen;
 - 5) Amount of nitrogen required by each crop in each field based on targeted crop yield goal;
 - 6) Nitrogen credits from previous crops, from other sources of fertilizer applied for the growing season, and from any manure applications during the previous three years for each application field;
 - 7) Livestock waste application rate based on nitrogen for each application field; and
 - 8) Band area required for application;
- n) A listing of fields and the planned livestock waste application amounts for each field;
- o) A provision that livestock waste applied within 1/4 mile of any

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- residence--not--part-of-the-facility--shall-be-injected-or-incorporated on-the-day-of-application--However--livesock--management--facilities and--livesock--waste--handling--facilities--that--have--irrigation--systems in-operation--prior--to--May 21, 1996, or--existing--facilities--applying waste--on--frozen--ground--are--not--subject--to--the--provisions--of--this subsection--to--(510-156S-77/20(f)(5))7.
- p) A--provision--that--livesock--waste--may--not--be--applied--within--200--feet--of surface--water--unless--the--water--is--upgraded--or--there--is--adequate drinking--and--waste--will--not--be--applied--within--150--feet--of--potable water--supply--wells (510-156S-77/20(f)(6))7.
- q) A--provision--that--livesock--waste--may--not--be--applied--in--a--10--year--flood plain--unless--the--injection--or--incorporation--method--of--application--is used (510-156S-77/20(f)(7))7.
- r) A--provision--that--livesock--waste--may--not--be--applied--in--waterways. For the--purposes--of--this--part, a--grassed--area--serving--as--a--waterway--may receive--livesock--waste--through--an--irrigation--system--if--there--is--no runoff,--the--distance--from--applied--livesock--waste--to--surface--water--is greater--than--200--feet,--the--distance--from--applied--livesock--waste--to--potable--water--supply--wells--is--greater--than--150--feet,--the--distance--from applied--livesock--waste--to--a--non--potable--well,--an--abandoned--or--plugged well,--a--drainage--well,--or--an--injection--well--is--greater--than--100--feet, and--precipitation--is--not--expected--within--24--hours--(510-156S-77/20(f)(8))7.
- s) A--provision--that--if--waste--is--spread--on--frozen--or--snow--covered--land, the--application--will--be--limited--to--land--areas--on--which:
- 1) Land--slopes--are--5%--or--less,--or
 - 2) Adequate--erosion--control--practices--exist (510-156S-77/20(f)(9))7.
- t) For--livesock--facilities--utilizing--an--earthen--lagoon--or--other--earthen waste--storage--structure,--a--provision--that--the--owner--operator--or certified--livesock--manager--shall--inspect--all--berm--tops,--exterior--berm sides,--and--non--submerged--interior--berm--sides--for--evidence--of--erosion, burrowing--animal--activity,--and--other--indications--of--berm--degradation on--a--frequency--of--not--less--than--once--every--two--weeks,--and
- u) A--provision--that--livesock--waste--may--not--be--applied--during--a--rainfall or--to--saturated--soil--and--that--conservative--waste--loading--rates--will--be used--in--the--case--of--a--high--water--table--or--shallow--earth--cover--to fractured--bedrock. Caution--should--be--exercised--in--applying--livesock wastes,--particularly--on--porous--soils,--so--as--not--to--cause--nitrate--or bacteria--contamination--of--groundwaters.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.304 General Design and Construction Standards Liveness-Waste
Volumes

- a) Livestock waste handling facilities shall be designed and constructed according to the following requirements:

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- 1) Storage and transport surfaces, other than those constructed of concrete, intended to come into contact with livestock waste shall be constructed or installed to achieve a hydraulic conductivity equal to or less than 1×10^{-7} centimeters per second.
- 2) Storage and transport surfaces constructed of concrete and intended to come into contact with livestock waste shall be constructed or installed to achieve a hydraulic conductivity equal to or less than 1×10^{-6} centimeters per second.
- 3) The livestock waste handling facility shall withstand, at a minimum, the following loads:
- A) Lateral loads due to soil and equipment, which shall be obtained from Table 2 of the Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36;
 - B) Lateral loads due to livestock waste scraping and handling equipment;
 - C) Lateral and vertical loads due to the handling and storage of livestock waste;
 - D) Vertical loads on tank tops, slats, and other horizontal surfaces, which shall be obtained from Table 3 of the Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36; and
 - E) Vertical loads due to mobile equipment, stationary equipment, and structures housing the livestock.
- 4) The construction materials shall be chemically compatible with the livestock waste being handled and stored and the supporting soil materials.
- 5) The livestock waste handling facility shall be designed and constructed to prevent erosion and damage resulting from the transport, handling, and storage of livestock waste.
- 6) Existing subsurface drainage lines in the immediate area of the livestock waste handling facility shall be removed or relocated to provide for a minimum separation distance of not less than 50 feet between the outermost extent of the livestock waste handling facility and the subsurface drainage line.
- 7) The minimum separation distance between the outermost extent of the livestock waste handling facility and any potential route of groundwater contamination, as defined in the Illinois Environmental Protection Act (415 ILCS 5), shall be not less than 100 feet. In addition, the minimum separation distance between the outermost extent of the livestock waste handling facility and a non-potable well, an abandoned or plugged well, drainage well, or injection well shall be not less than 100 feet.
- 8) The design and construction of livestock waste handling facilities shall include a backflow prevention device to prevent siphoning or gravity flow of livestock waste in the opposite direction of intended use.
- b) In addition to the requirements listed in this Section, livestock

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determination-shall-be-included-in-the-waste-management-plan-

(Source: Amended at 25 Ill. Reg. , effective)

Section 506.305 Additional Concrete Design and Construction Standards **Nutrient Content-of-livestock-Waste**

a) In addition to the requirements set forth in Section 506.304 of this Subpart, the design and construction of concrete components of livestock waste handling facilities shall meet the following requirements:

- 1) Construction joints shall be incorporated into the concrete in accordance with the design guidance provided in Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36 or in the case of circular concrete tanks, Circular Concrete Manure Tanks, TR-9.
- 2) Water stops shall be incorporated into construction joints in accordance with the design guidance provided in Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36 or in the case of circular concrete tanks, Circular Concrete Manure Tanks, TR-9.
- 3) Concrete minimum compressive strength requirements shall be in accordance with the design guidance provided in Table 28 of Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36 or in the case of circular concrete tanks, Table 1 of Circular Concrete Manure Tanks, TR-9; and
- 4) The strength, cover, and bending requirements for concrete reinforcement shall be in accordance with the design guidance provided in Table 1 of Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36 or in the case of circular concrete tanks, Circular Concrete Manure Tanks, TR-9.

b) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

a) For new facilities without a waste management plan or facilities where a waste management plan is being initially prepared pursuant to this Part, the owner or operator shall obtain the nitrogen content of the livestock waste as required in Section 506.303(f)(2) of this Part from the results of a laboratory analysis of livestock waste samples from the waste storage facility or from estimated values provided by the University of Illinois Cooperative Extension Service or the Natural Resources Conservation Service of the United States Department of Agriculture.

b) The livestock waste handling facility owner or operator shall annually obtain a laboratory analysis of the nutrient content of the livestock

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waste handling facilities shall be designed and constructed pursuant to the following:

- 1) Concrete livestock waste storage tanks shall be designed and constructed in accordance with Midwest Plan Service Concrete Manure Storages Handbook, MWPS-36, or, in the case of circular concrete tanks, Circular Concrete Manure Tanks, MWPS TR-9.
- 2) Components of livestock waste handling facilities which temporarily hold or transport waste for the purpose of liquid and solid separation, including but not limited to settling basins and settling tanks, shall be designed and constructed in accordance with Midwest Plan Service Livestock Waste Facilities Handbook, MWPS-18, or NRCS Waste Storage Structure, IL313.
- 3) Components of livestock waste handling facilities holding semi-solid waste, including but not limited to picket dam structures, shall be designed and constructed in accordance with Midwest Plan Service Livestock Waste Facilities Handbook, MWPS-18 or similar standards used by the Natural Resource Conservation Service of the United States Department of Agriculture.
- 4) Components of livestock waste handling facilities holding solid waste, including but not limited to temporary manure stacks, shall be designed and constructed in accordance with Midwest Plan Service Livestock Waste Facilities Handbook, MWPS-18 or similar standards used by the Natural Resource Conservation Service of the United States Department of Agriculture including but not limited to Waste Storage Structure, IL313.
- 5) Holding ponds used for the storage of livestock feedlot run-off and waste storage ponds shall be designed and constructed in accordance with Midwest Plan Service Livestock Waste Facilities Handbook, MWPS-18 or similar standards used by the Natural Resource Conservation Service of the United States Department of Agriculture including but not limited to Waste Holding Pond, IL425.

c) In areas where the seasonal high water table may encroach upon the bottom of the livestock waste storage structure, a perimeter foundation drainage tubing shall be installed adjacent to the foundation at an elevation of one foot below the bottom of the footings to permanently lower the water table. The tubing shall drain freely to a surface water outlet or other subsurface drainage outlet.

d) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

The volume of available livestock waste for application as required in Section 506.303(f)(1) of this Part, shall be determined from site specific measurements of the waste storage structure. Calculations and a description of the volume

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- waste--to--be--applied--to--land--as--provided--within--the--waste--management plan--livestock--waste--shall--be--sampled--during--the--application process--multiple--samples--shall--be--obtained--and--may--be--combined into--one--sample--for--analysis--so--that--a--representative--sample--is--used for--preparation--of--the--waste--management--plan--A--sample--taken--during waste--application--the--previous--year--can--be--used--as--a--representative sample--of--the--waste--to--be--applied--the--following--year--unless--there--has been--a--change--in--the--waste--management--practices.
- e) Livestock--waste--sampling--shall--be--performed--under--the--direction--of--a certified--livestock--manager--to--ensure--a--representative--sample--from--the livestock--waste--storage--facility--and--to--preserve--the--integrity--of--the sample.
- d) The--laboratory--analysis--of--the--livestock--waste--sample--shall--include but--not--be--limited--to--total--nitrogen--ammonium--nitrogen--total phosphorus--and--total--potassium--Results--of--the--analysis--shall--be included--in--the--waste--management--plan.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.306 Additional Metal Design and Construction Standards Adjustments to Nitrogen Availability

- a) In addition to the requirements set forth in Section 506.304 of this Subpart, the design and construction of metal components of livestock waste handling facilities shall meet the following requirements:
- 1) All metal surfaces shall be protected by a corrosion resistance system;
 - 2) Concrete footings and bases shall meet the strength and load requirements as set forth in Sections 506.304 and 506.305 of this Subpart;
 - 3) The connection of dissimilar metals shall be minimized; and
 - 4) Metal components of livestock waste handling facilities shall be constructed or installed according to the manufacturer's specifications and guidelines.
- b) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.
- Adjustments--shall--be--made--to--nitrogen--availability--to--account--for--nitrogen--loss from--livestock--waste--due--to--method--of--application--as--required--in--Section 506.303(m)(3)--and--to--account--for--the--conversion--of--organic--nitrogen--into--a plant--available--form--as--required--in--Section--506.303(m)(4)--of--this--Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 506.307 Additional Earthen Material Design and Construction Standards Targeted-Crop-Yield-Goat

- a) In addition to the requirements set forth in Section 506.304 of this Subpart, the design and construction of earthen components of livestock waste handling facilities shall meet the following requirements:
- 1) The construction and compaction of the earthen component shall be carried out to reduce void spaces and allow the earthen component to support the loadings imposed by the livestock waste without settling;
 - 2) The minimum top width of any berm incorporated into the design of any earthen component shall be 8 feet; and
 - 3) Walls incorporated into the design of an earthen component shall have side slopes not steeper than a 2.5 to 1 ratio of horizontal to vertical.
- b) The floor of deep bedded livestock systems and poultry litter systems utilizing an earthen base shall be constructed to achieve a hydraulic conductivity of equal to or less than 1×10^{-7} centimeters per second.
- c) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.
- a) The targeted-crop-yield-goat, as required in Section 506.303(m)(5) of this Part, shall be determined for each field where the livestock waste is to be applied. The targeted-crop-yield-goat shall be determined by obtaining an average yield over a five-year period from the field where livestock waste is to be applied. The following listing of sources of data shall be utilized to determine the targeted crop-yield-goat:
- 1) Proven yields. The proven yield shall be determined by obtaining an average yield over a five-year period from the field where livestock waste is to be applied. The owner or operator shall indicate the method used to determine the proven yield. Data from years with crop disasters may be discarded. Proven yields shall be used unless there is sound agronomic basis for predicting a different targeted-crop-yield-goat.
 - 2) Crop insurance yields. A copy of the crop insurance yields shall be included in the plan or
 - 3) Farm Service Agency. United States Department of Agriculture yields. A copy of the assigned crop yields shall be included in the plan.

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- b) ~~Soils-based yield data from the Natural Resources Conservation Service of the United States Department of Agriculture shall be used if the owner or operator cannot obtain a targeted crop yield goal pursuant to subsection (a) of this Section. A soil map of the application areas shall be included in the plan. The targeted crop yield goal shall be determined by a weighted average of the soil interpretation yield estimates for the areas that will receive livestock waste.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.308 Additional Synthetic Material Design and Construction Standards

- a) In addition to the requirements set forth in Section 506.304 of this Subpart, the design and construction of synthetic components of livestock waste handling facilities shall meet the following requirements:

- 1) The synthetic material shall be supported by a compacted base free from sharp objects;
 - 2) The use of field seams shall be minimized. All field seams shall be made according to the manufacturer's specifications and oriented in the direction subject to the least amount of stress;
 - 3) The synthetic material shall be resistant to or otherwise protected from damage from construction or operation and degradation by ultraviolet light;
 - 4) Synthetic components shall be designed for use in livestock waste handling facilities and shall be installed according to the manufacturer's specifications and guidelines;
 - 5) The liner shall be chemically compatible with the livestock waste being handled and stored and the supporting soil materials; and
 - 6) The liner shall have sufficient strength and durability to function at the site under the maximum expected loadings imposed by the waste and equipment and stresses imposed by settlement, temperature, construction, and operation.
- b) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 506.309 Additional Wooden Material Design and Construction Standards Nitrogen Credits

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- a) In addition to the requirements set forth in Section 506.304 of this Subpart, the design and construction of wooden components of livestock waste handling facilities shall meet the following requirements:
- 1) Wooden materials shall be naturally resistant or treated to resist damage from decay and corrosion; and
 - 2) Construction fasteners shall be resistant to corrosion.
- b) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.
- a) ~~Nitrogen credits shall be calculated by the livestock facility owner or operator pursuant to Section 506.303(f)(6) of this Part for nitrogen-producing crops grown the previous year for other sources of nitrogen applied for the growing season and for mineralized organic nitrogen in livestock waste applied during the previous three years. Nitrogen credits shall be calculated by the livestock facility owner or operator for the mineralized organic nitrogen in livestock waste applied during the previous three years at the rate of 50% 25% and 12.5% respectively of that mineralized during the first year.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.310 Additional Design and Construction Standards for Construction in an Area with Shallow Aquifer Material Records of Waste Disposal

- a) In addition to the other requirements of this Subpart, if aquifer material is located above or within 5 feet of the lowest point of the proposed livestock waste handling facility pursuant to Section 506.302 of this Subpart, the design and construction of the facility shall comply with the requirements of this Section.
- b) Livestock waste handling facility components constructed of concrete shall meet the following requirements:
- 1) The minimum thickness of floors shall be 5 inches;
 - 2) The minimum thickness of exterior walls shall be 8 inches; and
 - 3) Footings shall extend below the maximum frost depth.
- c) Livestock waste handling facility components constructed of earthen materials shall include the installation of an earthen or synthetic liner.
- 1) Earthen liners shall meet the following requirements:
- A) The liner shall consist of in-situ soil, borrowed clay, or clay/bentonite mixtures;
 - B) The minimum liner thickness shall be 2 feet; and
 - C) The liner shall be constructed in lifts not to exceed 6 inches in compacted thickness.

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- 2) Synthetic liners shall meet the design and construction requirements as set forth in Section 506.308 of this Subpart and shall have a minimum thickness of 40 mil.
- 3) The design, construction, and installation of the liner required pursuant to this Section shall be conducted under the direction of a Licensed Professional Engineer. Upon completion of construction or installation of the liner, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of this Section. Such certification shall include all supporting justification and data.
- 4) The owner or operator of the new livestock waste handling facility shall submit to the Department a copy of the Licensed Professional Engineer's liner certification prior to placing the livestock waste handling facility in service in accordance with Section 900.506(a) of 8 Ill. Adm. Code 900.
- d) In-ground livestock waste handling facilities shall include perimeter drainage tubing installed one foot below the bottom of the footings of the structure. The tubing shall drain freely to a surface water outlet or other subsurface drainage outlet and shall include a sampling port. The owner or operator shall sample the sampling port, analyze the samples, and report the results in accordance with the requirements of Subpart E of 8 Ill. Adm. Code 900.
- d) The owner and operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.
- Records-of-the-livestock-waste-disposal-shall-include-the-following-items:
- a) Date-of-livestock-waste-application;
 - b) The-field-where-livestock-waste-application-was-made;
 - c) Method-of-livestock-waste-application;
 - d) Livestock-waste-application-rate;
 - e) Number-of-acres-receiving-waste-and
 - f) Amount-of-livestock-waste-applied.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.311 Additional Design and Construction Standards for Construction in a Flood Fringe Area Approval-of-Waste-Management-Plans

No new non-lagoon livestock management facility or livestock waste handling facility may be constructed within the floodway of a 100-year floodplain. A new livestock management facility or livestock waste handling facility may be constructed within the portion of a 100-year floodplain that is within the

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flood fringe and outside the floodway provided that the facility is designed and constructed to be protected from flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5]. Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). [510 ILCS 77(13)(b)(1)] Notwithstanding the other requirements of this Subpart or 8 Ill. Adm. Code 900, the following criteria shall be incorporated into the design of a non-lagoon livestock management facility or livestock waste handling facility proposed for construction in the flood fringe of a 100-year floodplain:

- a) The berms and walls shall be designed and constructed to withstand the hydrostatic pressures from flood waters that may be exerted on the berms and walls during a flood event;
 - b) The elevation of the lowest point on the berm top and wall shall be at the elevation of the 100-year flood plus a minimum of two feet;
 - c) For facilities with unequal length and width dimensions, the facility shall be oriented with the longest dimension parallel to the expected direction of floodwater flow; and
 - d) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.
- Department-approval-of-livestock-waste-management-plans-shall-be-based on-the-following-criteria:
- 1) Livestock-waste-application-rate-of-nitrogen-not-to-exceed--the-crop-nitrogen-requirements-for-targeted-crop-yield-goals;
 - 2) Demonstration--of---adequate---land-area--for--livestock--waste-application--based-on-Section-506.303-of-this-Part--and
 - 3) Completeness-and-accuracy-of-plan--contents--as--specified--in-Section-506.303-of-this-Part.
- a) The--owner--or--operator--of--the--livestock--management--facility--shall-be-notified-by-the-Department-within-30-working-days-after-receipt-of-the-livestock-waste-management-plan-that-the-plan--has--been--approved--or--that-further-information-or-changes-are-needed--the-owner-or-operator-shall-provide-the-information-or-changes-within-30-working-days.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.312 Additional Design and Construction Standards for Construction in a Karst Area Sludge-Removal

- a) A new non-lagoon livestock waste handling facility constructed in a karst area shall be designed to prevent seepage of the stored material into groundwater in accordance with ASAE EP93.2. Owners or operators of proposed facilities should consult with the local soil and water

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conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. [510 ILCS 77/13(b)(2)]

b) The portion of a livestock waste handling facility located below the pre-construction soil surface level and constructed in a karst area shall be designed and constructed utilizing a rigid material such as concrete or steel.

c) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

a) Within 60 days prior to periodic removal of sludge from a livestock waste storage structure, the livestock facility owner or operator shall test the sludge for nutrient content pursuant to Section 506.305(c) and (d) of this Subpart. Application of the sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown.

b) Prior to the removal of the remaining livestock waste, soil, and sludge during a lagoon closure, the waste, soil, and sludge shall be tested for nutrient content pursuant to Section 506.305(c) and (d) of this Subpart. Application of the waste, soil, and sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown.

c) Nitrogen requirements based on targeted yields for the crop to be grown may be met but shall not be exceeded by any combination of the following:

- 1) Livestock waste applications
- 2) Periodic sludge applications, or
- 3) Remaining livestock waste, soil, or sludge applications during a waste storage structure closure

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 506.313 Plan Updates (Repealed)

a) The waste management plan shall be reviewed annually by the livestock facility owner or operator and updated if necessary after receipt by the owner or operator of the nutrient content results from the laboratory analysis of the livestock waste as required in Section 506.305(b) and (d) of this Subpart, but prior to the next application period of the livestock waste to the land.

b) The waste management plan shall also be updated when at least one of the following occurs:

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1) A change in the amount of land area needed to dispose of the livestock waste based upon a change in the waste volume to be disposed of, nitrogen content of the livestock waste, or other factors

2) A change in land that is available for livestock waste application if the land is not currently included in the waste management plan

3) Method of livestock waste disposal or application changes

4) Cropping sequence changes which alter the amount of livestock waste to be applied

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.314 Penalties (Repealed)

a) Any person who is required to prepare, maintain, and implement a waste management plan and who fails to do so shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to prepare a waste management plan for failure to prepare, maintain, and implement a waste management plan. The person shall be fined an administrative penalty of up to \$500 by the Department and shall be required to enter into an agreement of compliance to prepare, maintain, and implement a waste management plan within 30 working days for failure to prepare, maintain, and implement a waste management plan after the second 30-day period or for failure to enter into a compliance agreement. The Department may issue an operational cease and desist order until compliance is attained. (510-1b(8)-77/20(g))

b) The operational cease and desist order procedures may be suspended by the Department upon submittal of a waste management plan by the owner or operator to the Department. The cease and desist order shall be canceled by the Department upon approval of the waste management plan by the Department.

c) A waste management plan prepared as a result of a warning letter or compliance agreement shall be subject to approval by the Department. Penalties shall not be imposed for excessive nitrogen application for unplanned cropping changes due to weather or other unforeseeable circumstances.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUPPART D: CERTIFIED LIVESTOCK MANAGER

Section 506.401 Applicability (Repealed)

a) A livestock waste handling facility serving 300 or greater animal

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units shall be operated only under the supervision of a certified livestock manager. Notwithstanding the before stated provision, a livestock waste handling facility may be operated on an interim basis but not to exceed 6 months, to allow for the owner or operator of the facility to become certified. For the purposes of this Subpart, being operated under the supervision of a certified livestock manager shall mean that the certified livestock manager shall be immediately available to the workers at a livestock waste handling facility either in person or via telecommunications and shall have the ability to be physically present at the livestock waste handling facility within one hour after notification. (510-1BES-77/30(f))

b) Persons may become certified livestock managers by demonstrating an understanding of and competence for the operation of livestock waste handling facilities as established in Section 30 of the Livestock Management Facilities Act (510-1BES-77) and further described in this Subpart. Livestock managers shall establish or re-establish certification when required to do so in accordance with Section 30 of the Livestock Management Facilities Act.

c) A livestock manager certified pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 149037 effective October 31, 1996 and the emergency rules adopted in R97-14 at 21 Ill. Reg. 43137 effective March 31, 1997, shall be considered as certified pursuant to this Subpart.

For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility is the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

e) For violations pertaining to the certified livestock manager requirements, the owner or operator shall be issued a warning letter for the first violation and shall be required to have a certified manager for the livestock waste handling facility within 30 working days. For failure to comply with the warning letter within the 30-day period, the person shall be fined an administrative penalty of up to \$500 by the Department and shall be required to enter into an agreement to have a certified manager for the livestock waste handling facility within 30 working days. For failure to comply with the agreement to have a certified manager for the livestock waste handling facility within the 30-day period or for failure to enter into a compliance agreement, the person shall be fined up to \$1,000 by the Department and shall be required to enter into an agreement to have a certified manager for the livestock waste handling facility within 30 working days. For continued failure to comply, the Department may issue an operational cease and desist order until compliance is attained. (510-1BES-77/30(g)) The cease and desist order shall be canceled by the Department upon presentation to the Department of a valid certified livestock manager certificate issued in the name of the owner, operator or current employee of the livestock facility.

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(Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART E: PENALTIES

Section 506.501 General (Repealed)

The penalties for violations of the Livestock Management Facilities Act (510-1BES-77) and this Part shall be those as identified in the Livestock Management Facilities Act and further described in this Part and Subpart. Warning letters and written notices from the Department shall be sent via certified mail to the livestock facility owner or operator.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART F: FINANCIAL RESPONSIBILITY

Section 506.601 Scope, Applicability, and Definitions (Repealed)

a) This Subpart provides procedures by which the owner of a new or modified livestock waste lagoon registered under the Livestock Management Facilities Act provides evidence of financial responsibility satisfying the requirements of Section 17 of the Livestock Management Facilities Act.

b) Owners of lagoons must comply with the financial responsibility requirements of this Part either:

1) on or before June 17, 1997; or

2) before the lagoon is placed in service.

c) For the purposes of this Subpart, the following terms have the following meanings:

1) *financial institution* means:

A) An insurer providing commercial or private insurance to evidence financial responsibility for lagoon closure in accordance with Section 506-610 of this Part;

B) A guarantor providing a guarantee as evidence of financial responsibility for lagoon closure in accordance with Section 506-611 of this Part;

C) The issuer of a surety bond as evidence of financial responsibility for lagoon closure in accordance with Section 506-612 of this Part;

D) The issuer of a letter of credit as evidence of financial responsibility for lagoon closure in accordance with Section 506-613 of this Part; or

E) The livestock waste lagoon closure fund managed by the Illinois Farm Development Authority that evidences financial responsibility for lagoon closure in accordance with Section 506-615 of this Part.

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- 2) "level-of-surety" means the level calculated in accordance with Section 506.603 of this Part, at which evidence of financial responsibility must be provided;
- 3) "surety instrument" means any of the devices listed in Section 506.602 of this Part by which a lagoon owner evidences financial responsibility for lagoon closure. Unless the context requires otherwise, "surety instrument" includes a combination of surety instruments;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.602 Mechanisms for Providing Evidence of Financial Responsibility (Repealed)

- a) Financial responsibility may be evidenced by any combination of the following:
- 1) Commercial or private insurance;
 - 2) Guarantee;
 - 3) Surety bond;
 - 4) Letter of credit;
 - 5) Certificate of deposit or designated savings account; or
 - 6) Participation in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. (510-1569-77717)

b) The lagoon owner must provide continuous coverage from the time the lagoon is placed in service until such time as the owner is released from the financial responsibility requirements pursuant to Section 506.605(a) of this Part; the initial term of any surety instrument (other than a certificate of deposit or designated savings account) utilized to fulfill the requirements of this Part must be at least three years. At least two years prior to the expiration date of such instrument, the owner must provide the Department with proof that the term of coverage has been extended for at least one additional year.

c) Upon a change in the ownership of a livestock management facility or livestock waste handling facility involving a lagoon that is subject to the financial responsibility requirements of this Subpart, the new owner must establish and maintain evidence of financial responsibility at the same level of surety as the previous owner.

d) The lagoon owner must ensure that the terms and conditions of the surety instrument(s) listed in subsection (a) of this Section upon which the owner relies are legally valid, binding, and enforceable under State and Federal law.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.603 Level of Surety (Repealed)

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- a) The level of surety is determined by the following formula:

$$\text{Level of Surety} = (V \times EP) + BE$$

where:

V = Volume of the lagoon as constructed or modified in cubic feet, including the freeboard volume;

EP = Cost factor determined pursuant to subsection (b) of this Section; and

BE = Engineering contingency determined under subsection (c) of this Section;

- b) The cost factor is obtained from the following:

- 1) Until December 31, 2002, the cost factor is 10¢ per cubic foot of lagoon volume;
- 2) From January 1, 2003 through December 31, 2007, the cost factor is 12¢ per cubic foot of lagoon volume;
- 3) After January 1, 2007, the cost factor is 15¢ per cubic foot of lagoon volume;

- c) The engineering contingency is equal to 10% of (V x EP).

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.604 Upgrading Surety Instrument (Repealed)

- a) The owner of a lagoon must increase the total amount of surety in place so as to equal the level of surety as calculated within 90 days after:

- 1) a modification resulting in an increase in the volume of the lagoon; or
- 2) an increase in the cost factor under Section 506.603(b) of this Part;

b) If modification of a lagoon results in a decrease in volumetric capacity, the owner or operator may provide the Department with documentation of the reduction in volumetric capacity and request recalculation of the level of surety. Within 90 days after a request by the owner or operator under this subsection, the Department must either:

- 1) release any surety amount above the level of surety as recalculated based upon the owner's documentation of reduction of volumetric capacity; or
- 2) conduct an inspection and determine the amount by which volumetric capacity has been decreased;

c) If the Department conducts an inspection under subsection (b), then

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the Department must release any surety amount above the level of surety as recalcitrated based upon the results of the inspection:

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.605 Release of Lagoon Owner and Financial Institution (Repealed)

- a) The Department must release a lagoon owner from the requirements of this Subpart when:
- 1) The lagoon has been properly closed and a notification of closure completion pursuant to Section 506.209 of this Part has been issued to the lagoon owner by the Department; or
 - 2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose; or
 - 3) Title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 506.602(c) of this Part.
- b) The Department must release a financial institution when:
- 1) A lagoon owner offers an authorized alternative surety that meets the requirements of Section 506.607(c) of this Part; or
 - 2) The Department releases the lagoon owner from the requirements of this Subpart under subsection (a) of this Section.
- c) The Department must notify the lagoon owner and financial institution in writing within 60 days after a release under this Section if a release is based upon proper closure of a lagoon; notification under this subsection should occur at the same time as notice of proper closure under Section 506.209(a)(4).

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.606 Financial Responsibility Proceeds (Repealed)

- a) A financial institution issuing a surety instrument evidencing financial responsibility for closure of a livestock waste lagoon becomes liable on the surety instrument when a lagoon is removed from service and:
- 1) The owner fails to submit the lagoon closure plan required by Section 506.209 of this Part and:
 - A) cannot be found; or
 - B) fails to cure such failure within 30 days after notice from the Department;
 - 2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service; unless the lagoon is maintained or serviced; or
 - 3) The owner fails to comply with an approved lagoon closure plan

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- and:
- A) cannot be found; or
 - B) fails to cure such noncompliance within 30 days after notice from the Department;
- b) The Department must provide notice to the financial institution providing surety for the lagoon:
- 1) when it determines that the lagoon has been removed from service; and
 - 2) when it determines that one of the criteria for liability set forth in subsection (a) of this Section has been met.
- c) Within 30 days after notice of liability from the Department, the financial institution must either assume liability for closure of the lagoon and notify the Department of its election to assume liability, or deposit the amount for which it is liable in connection with the lagoon into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon.
- 1) If the financial institution assumes liability for closure of the lagoon, it must submit a lagoon closure plan that meets the requirements of Section 506.209 of this Part within 60 days after notifying the Department of its election. Notwithstanding, the financial institution's assumption of liability for closure of the lagoon, the Department may require the financial institution to deposit funds up to the amount for which the financial institution is liable under the surety instrument into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon if:
- A) the financial institution does not submit the lagoon closure plan as required and fails to cure such omission within 30 days after notice from the Department;
 - B) the financial institution fails to obtain Department approval of a lagoon closure plan within eight months after the date that it elects to assume liability for closure of the lagoon; unless the lagoon is maintained or serviced; or
 - C) the financial institution fails to comply with an approved lagoon closure plan and fails to cure such noncompliance within 30 days after notice from the Department;
- 2) A financial institution that assumes liability for closure of a lagoon under this Section remains liable for the full amount of the surety instrument until the Department issues written notification of completion of closure in accordance with Section 506.209, notwithstanding the expiration of the instrument utilized to evidence financial responsibility by the owner.
- Any amounts that a financial institution may expend for service or maintenance of the lagoon pending closure or for partial closure of the lagoon do not reduce the amount of the financial institution's obligation under this subsection (c).
- 4) If the financial institution elects or is required under subsection (c)(1) of this Section to deposit the funds required

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by the Department into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon; then the Department shall close the lagoon within the time frame established under Section 15(f) of the BMPA or as soon as practicable to the extent possible utilizing the funds deposited by the financial institution. The Department may use any interest earned on deposited funds to close the lagoon. The Department must release any funds remaining in the account, including any remaining interest earned on funds in the account, to the financial institution upon completion of closure.

d) The Department may sue in any court of competent jurisdiction to enforce its rights under any surety instrument.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.606 Financial Responsibility Proceeds (Repealed)

a) A financial institution issuing a surety instrument evidencing financial responsibility for closure of a livestock waste lagoon becomes liable on the surety instrument when a lagoon is removed from service and:

- 1) The owner fails to submit the lagoon closure plan required by Section 506.209 of this Part and:
 - A) cannot be found; or
 - B) fails to cure such failure within 30 days after notice from the Department;
- 2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or
- 3) The owner fails to comply with an approved lagoon closure plan and:
 - A) cannot be found; or
 - B) fails to cure such noncompliance within 30 days after notice from the Department;
- b) The Department must provide notice to the financial institution providing surety for the lagoon:
 - 1) when it determines that the lagoon has been removed from service; and
 - 2) when it determines that one of the criteria for liability set forth in subsection (a) of this Section has been met;
- c) Within 30 days after notice of liability from the Department, the financial institution must either assume liability for closure of the lagoon and notify the Department of its election to assume liability, or deposit the amount for which it is liable in connection with the lagoon into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon.

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1) If the financial institution assumes liability for closure of the lagoon, it must submit a lagoon closure plan that meets the requirements of Section 506.209 of this Part within 60 days after notifying the Department of its election. Notwithstanding the financial institution's assumption of liability for closure of the lagoon, the Department may require the financial institution to deposit funds up to the amount for which the financial institution is liable under the surety instrument into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon if:

- A) the financial institution does not submit the lagoon closure plan as required and fails to cure such omission within 30 days after notice from the Department;
 - B) the financial institution fails to obtain Department approval of a lagoon closure plan within eight months after the date that it elects to assume liability for closure of the lagoon, unless the lagoon is maintained or serviced; or
 - C) the financial institution fails to comply with an approved lagoon closure plan and fails to cure such noncompliance within 30 days after notice from the Department.
- 2) A financial institution that assumes liability for closure of a lagoon under this Section remains liable for the full amount of the surety instrument until the Department issues written notification of completion of closure in accordance with Section 506.209, notwithstanding the expiration of the instrument utilized to evidence financial responsibility by the owner.
- 3) Any amounts that a financial institution may expend for service or maintenance of the lagoon pending closure or for partial closure of the lagoon do not reduce the amount of the financial institution's obligation under this subsection (c).
- 4) If the financial institution elects, or is required under subsection (c) of this Section, to deposit the funds required by the Department into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon, then the Department shall close the lagoon within the time frame established under Section 15(f) of the BMPA or as soon as practicable to the extent possible utilizing the funds deposited by the financial institution. The Department may use any interest earned on deposited funds to close the lagoon. The Department must release any funds remaining in the account, including any remaining interest earned on funds in the account, to the financial institution upon completion of closure.
- d) The Department may sue in any court of competent jurisdiction to enforce its rights under any surety instrument.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 506.607 Use of Multiple Surety Instruments (Repealed)

- a) The lagoon owner may use any combination of the surety instruments listed in Section 17 of the Livestock Management Facilities Act (610 ILCS 77/17) and this Subpart to evidence the required level of financial responsibility.
- b) A lagoon owner is not limited to maintaining financial responsibility with the original surety instrument or combination of instruments; the owner must notify the Department before making any change in surety instruments.
- c) If a lagoon owner makes any change in surety instruments, the lagoon owner must maintain the total financial responsibility for the lagoon at a level not less (without counting the amounts to be released) than the level of surety.
- d) A replacement surety instrument or instruments must provide evidence of financial responsibility for a period at least equal to the existing instrument or instruments. This provision does not relieve an owner of the obligation under Section 506.602(b) to provide proof at least two years prior to expiration of a surety instrument that the term for which financial responsibility has been demonstrated has been extended for at least an additional year.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.608 Use of a Single Surety Instrument for Multiple Lagoons (Repealed)

- a) An owner may use a surety instrument specified in this Subpart to provide evidence of financial responsibility for more than one lagoon.
- b) Whenever a single surety instrument is used for multiple lagoons, the owner must submit an itemization to the Department identifying all lagoons covered by the surety instrument and the amount allocated to each lagoon.
- c) The amount of funds available through the surety instrument must be no less than the sum of funds that would be available if a separate surety instrument had been established and maintained for each lagoon.
- d) In directing funds available through a single surety instrument for the closure of any single lagoon covered by that surety instrument, the Department shall direct only the amount of funds designated for that lagoon; unless the owner agrees to allow the Department to use additional funds available under that surety instrument. Such an agreement does not affect the owner's obligation to provide evidence of financial responsibility up to the level of surety for all other lagoons.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 506.610 Commercial or Private Insurance (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining closure insurance that conforms to the requirements of this Subpart and submitting an executed duplicate original of such insurance policy to the Department.
- b) The insurer must be licensed to transact the business of insurance by the Illinois Department of Insurance pursuant to the Illinois Code (215 ILCS 5/).
- c) The policy must be on forms approved by the Illinois Department of Insurance.
- d) The closure insurance policy must guarantee that funds will be available to close the lagoon; the policy must also guarantee that upon a notice of liability from the Department, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy in accordance with Section 506.606(c) of this Part.
- e) The policy must provide that the insurer may not cancel or terminate the policy.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.611 Guarantee (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a guarantee that conforms to the requirements of this Subpart.
- b) A guarantor must submit a financial statement to the Department from the guarantor's most recent fiscal year.
- c) The Department will review the financial statement to determine if adequate resources exist to guarantee the closure costs and notify the lagoon owner of acceptance or denial within 30 days after receipt of the financial statement by the Department.
- d) The guarantor shall guarantee to pay the amount specified in the guarantee upon notice from the Department as provided in Section 506.606(c) of this Part.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.612 Surety Bond (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a surety bond that conforms to the requirements of this Subpart and submitting the bond to the Department.

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- b) The surety company issuing the bond must be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code (215 ILCS 5) and approved by the U.S. Department of the Treasury as an acceptable surety. Acceptable sureties are listed in Circular 570 from the U.S. Department of the Treasury.
- c) The bond must guarantee that the lagoon owner will provide lagoon closure and content removal in accordance with Section 506.613 of this Part.
- d) The surety bond must be in substantially the form specified in Appendix A7 illustration A of this Part.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.613 Letter of Credit (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subpart and submitting the letter to the Department.
- b) The issuing institution must be an entity that has the authority to issue letters of credit and:
- 1) whose letter of credit operations are regulated by the Illinois Commissioner of Banks and Real Estate; or
 - 2) whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) The letter of credit made out to the Department must be accompanied by a letter from the lagoon owner referring to the letter of credit by number, issuing institution, and date and providing the following information: name and address of the lagoon site and the amount of funds assured for closure of the lagoon by the letter of credit.
- d) The letter of credit must be substantially in the form specified in Appendix A7 illustration B of this Part.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.614 Certificate of Deposit or Designated Savings Account (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by designating certificates of deposit or savings accounts for use as financial responsibility.
- b) The issuing or depository financial institution must be an entity whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) The Department may draw on the certificates of deposit or savings

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- account(s) to pay the costs of closing a lagoon in accordance with this subsection. The Department shall close a lagoon when the lagoon is removed from service and:
- 1) The owner fails to submit the lagoon closure plan required by Section 506.209 of this Part and:
- A) cannot be found; or
 - B) fails to cure such failure within 30 days after notice from the Department.
- 2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or
 - 3) The owner fails to comply with an approved lagoon closure plan and:
- A) cannot be found; or
 - B) fails to cure such noncompliance within 30 days after notice from the Department.
- d) The Director of the Department shall be listed as trustee of the certificate(s) of deposit or savings account(s) for the lagoon owner.
- e) At maturity of any certificate of deposit designated as financial responsibility for lagoon closure, the certificate shall be renewed or the proceeds deposited into a designated savings account that meets the requirements of this Section.
- f) The Department shall relinquish trusteeship of the certificate(s) of deposit or savings account(s) when:
- 1) the lagoon has been properly closed and a notification of closure completeness pursuant to Section 506.209 of this Part has been issued to the lagoon owner by the Department;
 - 2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose pursuant to Section 506.209 of this Part;
 - 3) title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 506.602(c) of this Part; or
 - 4) A lagoon owner offers an authorized alternative surety which meets the requirements of Section 506.607(c) of this Part.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.615 Participation in a Livestock Waste Lagoon Closure Fund (Repealed)

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by participating in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. An owner electing to provide evidence of financial responsibility under this Section must submit a certificate of

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- participation in such a lagoon closure fund to the Department. The certificate of participation submitted pursuant to subsection (a) of this Section must include:
- 1) the level of surety for the lagoon;
 - 2) the dollar amount of coverage provided by the lagoon closure fund;
 - 3) the dates for which coverage is provided; and
 - 4) a financial statement of the lagoon closure fund establishing the lagoon closure fund's compliance with the requirements of this Section.
- c) The lagoon closure fund must maintain minimum reserves equal to the greater of:
- 1) the level of surety of the largest lagoon covered by the lagoon closure fund; or
 - 2) twice the average level of surety of lagoons covered by the fund.
- d) The lagoon closure fund must guarantee that funds will be available to close the lagoon. Upon a notice of liability from the Department, the lagoon closure fund must comply with the requirements of Section 506-606(c) of this Part.
- e) If the reserves of the lagoon closure fund are reduced to less than the minimum amount required under subsection (b) due to expenditures of funds in order to comply with Section 506-606(c), then within 120 days after such reduction the lagoon closure fund must demonstrate to the Department that the minimum reserve level has been restored.
- f) The lagoon closure fund may not cancel or terminate coverage prior to the date set forth in the certification pursuant to subsection (b)(3) of this Section.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.620 Penalties (Repealed)

The Department may order a lagoon removed from service if the owner fails to provide evidence of financial responsibility to the Department or fails to maintain financial responsibility in the amount required pursuant to Section 506-603 of this Subpart.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART G: SETBACKS

Section 506.701 Applicability (Repealed)

- a) All new livestock management or livestock waste handling facilities shall comply with the setback distances as established in Section 506-603 of the Livestock Management Facilities Act (510 ILCS 77/33) and with

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- the provisions of this Subpart.
- b) Commencement of operations at a facility reconstructed within two years after partial or total destruction due to natural causes such as tornado, fire, flood, or earthquake shall not be considered the location of a new livestock management or waste handling facility for setback purposes. Likewise, a residence partially or totally destroyed due to natural causes, such as tornado, fire, flood, or earthquake, shall retain its original setback for a period of no greater than two years to allow for reconstruction of the residence.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.702 Procedures (Repealed)

- a) Grandfather provision: Facilities in existence prior to July 15, 1991, livestock management facilities and livestock waste handling facilities in existence prior to July 15, 1991, shall comply with setbacks in existence prior to July 15, 1991, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501-402-77/35(c).
- b) Grandfather provision: Facilities in existence on effective date and after July 15, 1991, livestock management facilities and livestock waste handling facilities in existence on May 21, 1996 (the effective date of the Livestock Management Facilities Act) but after July 15, 1991, shall comply with setbacks in existence prior to May 21, 1996, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501-402-77/35(b).
- c) New livestock management or livestock waste handling facilities: Any new facility shall comply with the following setbacks: 510 ILCS 77/35(c).

- 1) Residence and Non-Farm Residence: For purposes of determining setback distances, minimum distances shall be measured from the nearest corner of the residence to the nearest corner of the earthen waste lagoon or livestock management facility, whichever is closer.

- 2) Common Place of Assembly or Non-Farm Business: For the purposes of determining setback distances between a common place of assembly or non-farm business:

- A) When the primary activity at a common place of assembly or non-farm business is an outdoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon or livestock management facility to the nearest point on the legal property line of the common place of assembly or non-farm business.
- B) When the primary activity at a common place of assembly or non-farm business is not an outdoor activity and is an indoor activity, minimum distances shall be measured from

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the nearest corner of the earthen waste lagoon or livestock management facility to the nearest corner of the structure where the indoor activity takes place.

3) A livestock management facility or livestock waste handling facility serving less than 50 animal units shall be exempt from setback distances as set forth in the Livestock Management Facilities Act but shall be subject to rules promulgated under the Illinois Environmental Protection Act.

4) For a livestock management facility or waste handling facility serving 50 or greater but less than 1,000 animal units, the minimum setback shall be 1/4 mile from the nearest occupied non-farm residence and 1/2 mile from the nearest populated area. For a livestock management facility or livestock waste handling facility serving 1,000 or greater but less than 7,000 animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be increased 440 feet over the minimum setback of 1/2 mile for each additional 1,000 animal units over 1,000 animal units.

B) For any occupied residence, the minimum setback shall be increased 220 feet over the minimum setback of 1/4 mile for each additional 1,000 animal units over 1,000 animal units.

6) For a livestock management facility or livestock waste handling facility serving 7,000 or greater animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be 1 mile.

B) For any occupied residence, the minimum setback shall be 1/2 mile.

d) Requirements governing the location of a new livestock management facility and new livestock waste handling facility and conditions for exemptions or compliance with the maximum feasible location as provided in 35 Ill. Adm. Code 501.402 concerning agriculture related pollution shall apply to those facilities identified in subsections (b) and (c) of this Section with regard to the maximum feasible location requirements any reference to a setback distance in 35 Ill. Adm. Code 501.402 shall mean the appropriate distance as set forth in this Section. (510-IES-77/35(d))

e) Setback category shall be determined by the design capacity in animal units of the livestock management facility. (510-IES-77/35(e))

f) Setbacks may be decreased when innovative designs are approved by the Department are incorporated into the facility. (510-IES-77/35(f))

1) An owner or operator shall request a setback decrease in writing prior to construction.

2) An owner or operator shall attach to the request for decrease a certification by a licensed Professional Engineer that in the professional judgment of the licensed Professional Engineer the innovative designs incorporated into the facility will provide more odor protection than the original setbacks.

3) The Department shall notify the owner or operator of its

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determination within 30 days after the receipt of the request for decrease. In approving a reduction in setbacks due to innovative designs, the Department shall specifically find that such use of an innovative design will provide more odor protection than the original setbacks.

4) Where the Department grants such a decrease from the setbacks the Department must maintain a file which includes all supporting data and justification which it relied upon in making its determination. This file is subject to public inspection.

g) A setback may be decreased when waivers are obtained from owners of residences that are occupied and located in the setback area. (510-IES-77/35(g)) A setback also may be decreased when waivers are obtained from owners of non-farm businesses or common places of assembly that are located in the setback area.

1) An owner or operator request for a setback decrease shall be in writing and submitted to the Department prior to construction.

2) An owner or operator shall attach to the request copies of the written and notarized waivers from all the owner(s) of the residence(s), non-farm business(es), and common place(s) of assembly that are located within the setback area.

3) Within 30 days after receipt of the request and waivers, the Department shall notify the owner or operator in writing of the setback decrease.

4) When such a decrease from the setbacks is requested, the Department must maintain a file which includes all supporting data and justification concerning the setback decrease. This file is subject to public inspection.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.703 Initial Determination of Setbacks (Repealed)

the requirements of this Section do not apply to new livestock management facilities or new livestock waste handling facilities serving less than 50 animal units.

a) An owner or operator shall file a notice of intent to construct which meets the informational requirements of subsection (b) of this Section for a new livestock management facility or new livestock waste handling facility with the Department prior to construction to establish an initial determination of setbacks.

b) The notice of intent to construct shall contain a legal description of the land on which the livestock facility will be constructed, the name(s) and addresses of the owner(s) or operator(s) of the facility, the type and size of the facility and number of animal units, names and addresses of the owner(s), including local State and federal governments, of the property located within the setback area, the distance to the nearest populated area, residence, non-farm

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business and common place of assembly; a map or sketch showing the proposed facility and setback; and a statement identifying whether a request for decrease in setbacks pursuant to Section 506.702(f) or (g) has been sought and whether the request has been granted or denied yet.

e) The owner or operator shall mail by certified mail the notice of intent to construct to the owner(s) of the property located within the setback distances. The owner(s) of the property located within the setback distances are presumed, unless established to the contrary, to be person shown by the current collector's warrant book to be the party in whose name the taxes were last assessed.

d) Within 30 days after receipt of the notice to construct, the Department shall notify the owner or operator in writing whether the setback distances have been met.

e) The date the notice of intent to construct is filed with the Department establishes the base date for the determination of whether residences, non farm businesses, or common places of assembly exist for setback purposes and shall remain the base date if construction begins within one year following receipt of the Department's determination or if a tagoon registration form is filed with the Department within one year after receipt of the Department's determination of compliance with the setback distances.

f) If the Department determines that the owner or operator has complied with the setback requirements, it may construct or erect residences, non farm businesses, or common places of assembly cannot operate to alter the setback as initially determined, subject to the limitation in subsection (e) of this Section.

g) Where an intent to construct has been filed, the Department must maintain a file which includes all filings and supporting data and justification which it relied upon in making its determination regarding compliance with the setback distances. This file is subject to public inspection.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 506.704 Penalties (Repealed)

a) For violations of the setback distance requirements, the Department may issue one of the following to the owner or operator of the livestock management facility or livestock waste handling facility:

1) If during construction, a cease and desist order which prohibits further construction of the livestock management facility or livestock waste handling facility, prohibits entry of livestock into the livestock management facility, and prohibits use of the livestock waste handling facility, or

2) An operational cease and desist order.

b) A cease and desist order issued by the Department pursuant to

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subsection (a) of this Section shall be canceled by the Department pursuant to the following:

- 1) Submission to the Department of a valid waiver as provided for in Section 506.702(g) of this Subpart by the livestock management facility owner or operator or the livestock waste handling facility owner or operator; or
- 2) Verification by the Department of compliance with the appropriate setback distances as described in Section 35 of the Livestock Management Facilities Act (510 ILCS 77/35).

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 506.APPENDIX A Surety Instruments (Repealed)

Section 506.ILLUSTRATION A Surety Bond (Repealed)

SURETY BOND

Date bond-executed:-----

Effective date:-----

Principal:-----

Type-of-organization:-----

State-of-incorporation:-----

Surety:-----

Sites:-----

Name:-----

Address:-----

City:-----

Amount-guaranteed-by-this-bond:-----

Name:-----

Address:-----

City:-----

Amount-guaranteed-by-this-bond:--\$-----

Please-attach-a-separate-page-if-more-space-is-needed-for-all-sites.

Total-penal-sum-of-bond:--\$-----

Surety's-bond-number:-----

The-Principal-and-the-Surety-promise-to-pay-the-illinois-Department-of-Agriculture--(Department)--the-above-penal-sum-unless-the-Principal-provides-closure-for-each-site-in-acordance-with-510-IHES-77715(e)--and--35--III--Adm-Code--506-209. To-the-payment-of--this-obligation-the-Principal-and-Surety-jointly-and-severally-bind-themselves-their-heirs-executors-administrators-successors-and-assigns.

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Whereas--the-Principal--is--required,--under--Section--15(b)--of--the-Bivestock-Management-Facilities-Act--(BMPA)--to-register-at-least-one-livestock-waste-lagoon-with-the-Department;--and

Whereas--the-Principal--is--required,--under--Section--17--of--the-BMPA--to-evidence-financial-responsibility-for-closure-of-each-registered-lagoon;--and

Whereas--the-Surety--is--licensed-by-the-illinois-Department-of-Insurance;--and

Whereas--the-Principal--and-Surety--agree--that--this-bond--shall--be-governed-by--the-laws--of--the--State--of--Illinois;

The-Surety--shall--pay--the-penal-sum--to--the-Department--if,--during--the-term--of--the-bond,--the-Department--issues--a-notice--of--liability--to--the-Surety.

The-Surety--shall--pay--the-penal-sum--of--the-bond--to--the-Department--within--30--days--after--the-Department--mails--the-notice--of--liability--to--the-Surety--unless--the-Surety--assumes--responsibility--to--provide--closure--and--so--notifies--the-Department. Payment--shall--be--made--by--deposit--of--funds--into--a-designated-account--upon--which--the-Department--is--authorized--to--draw.

The-liability--of--the-Surety--shall--not--be--discharged--by--any--payment--or--succession--of--payments--unless--and--until--such--payment--or--payments--shall--amount--in--the--aggregate--to--the--penal--sum--of--the--bond. In--no--event--shall--the--obligation--of--the-Surety--exceed--the--amount--of--the--penal--sum. If--the-Surety--assumes--responsibility--to--provide--closure,--expenditures--made--by--the-Surety--for--that--purpose--may--exceed--the--amount--of--the--penal--sum;--but--the--amount--of--the-Surety's--obligation--under--this-bond--is--not--affected.

This-bond--shall--expire--on--the-----day--of-----,-----.

The-Principal--may--terminate--this-bond--by--sending--written--notice--to--the--surety;--provided,--however,--that--no--such--notice--shall--become--effective--until--the-Surety--receives--written--authorization--for--termination--of--the-bond--from--the-Department. In--Witness--Whereof,--the-Principal--and-Surety--have--executed--this-Surety-Bond--and--have--affixed--their--seals--on--the--date--set--forth--above.

The-persons--whose--signatures--appear--below--certify--that--they--are--authorized--to--execute--this--surety-bond--on--behalf--of--the-Principal--and-Surety.

PRINCIPAL

Signature-Name-----

Typed-Name-----

Address-----

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Title-----

State-of-incorporation-----

Date-----

Corporate-seal

CORPORATE-SURVEY

Signature-----

Typed-Name-----

Title-----

Corporate-seal

Bond-premium-----

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 506. ILLUSTRATION B Irrevocable Standby Letter of Credit (Repealed)

IRREVOCABLE-STANDBY-LETTER-OF-CREDIT

Director
Illinois-Department-of-Agriculture
P.O.-Box-19281
Springfield, Il-62794-9281

Dear-Sir-or-Madam:

We-have-authority-to-issue-letters-of-credit--Our-letters-of-credit--operations
are--regulated--by--the--Illinois-Commissioner-of-Banks-and-Real-Estate--or--our
deposits--are--insured--by--the--Federal-Deposit-Insurance-Corporation--or--the
Federal-Savings-and-Loan-Insurance-Corporation--(Omit-language-that-does-not
apply--)

We-hereby-establish-our-irrevocable-standby-letter-of-credit-No-----in
your--favor--at-the-request-and-for-the-account-of-----up-to-the-aggregate
amount-of-U.S.-dollars-(\$-----), available-upon-presentation-of:

1: -----your-sight-draft, bearing-reference-to-this-letter-of-credit
No:-----, and

2: -----your-signed-statement-reading-as-follows: "I-certify-that-the
amount-of-the-draft-is-payable-pursuant-to-regulations-issued-under
authority-of-the-livestock-management-facilities-Act-1510-ILCS-77-and-25
Ill.-Adm.-Code-506.606(e) or 506.606(f)." "

This-letter-of-credit-is-effective-as-of-----and-shall-expire-on-----

Whenever-this-letter-of-credit-is-drawn-on-under-and-in-compliance-with-the
terms-of-this-credit-we-shall-duly-honor-such-draft-upon-presentation-to-us,
and-we-shall-deposit-the-amount-of-draft-directly-into-a-designated-account-in
accordance-with-your-instructions.

This-letter-of-credit-is-governed-by-the-Uniform-Commercial-Code-1-10-ILCS-51-

Signature-----
Typed-Name-----
Title-----
Date-----
Name-and-address-of-issuing-institution-----
This-credit-is-subject-to-----

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.642 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: The Department is proposing several changes concerning screening assessments and nursing facility (NF) placements for Medicaid supported persons. The Department is eliminating use of the physician certification date as an option for the begin date of Medicaid payment. Currently, if the physician certification requirement is met after the effective date of Medicaid eligibility, payment will begin on the date of physician certification. Since federal regulations do not require this use of the physician certification date, Section 140.642 is being revised to reflect the start of Medicaid payment in most cases as the effective date of Medicaid eligibility or the date of admission if Medicaid eligibility has already been established. Several other payment circumstances are described in the proposed amendments. Physician certification will continue to be required prior to the authorization of Medicaid payments for NF services pursuant to federal regulations at 42 CFR 456.360.

Under the proposed amendments, requirements concerning annual resident reviews (ARR) are also being eliminated. These reviews are conducted annually as federally required to validate the level of services needed by persons with a developmental disability or severe mental illness who reside in NFs. However, amendments to Section 1919(e)(7) of the Social Security Act, as a result of Public Law 104-315, have removed ARR requirements.

Several other changes are being proposed to eliminate certain exceptions to screening assessments and to provide language updates and clarifications. These proposed amendments are not expected to result in any budgetary changes.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

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- | <u>Sections</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-----------------|------------------------|---|
| 140.21 | Amendment | October 6, 2000 (24 Volume Ill. Reg. 14593) |
| 140.22 | Amendment | October 6, 2000 (24 Volume Ill. Reg. 14593) |
| 140.416 | Amendment | December 22, 2000 (24 Volume Ill. Reg. 18486) |
| 140.417 | Amendment | December 22, 2000 (24 Volume Ill. Reg. 18486) |
| 140.418 | Amendment | December 22, 2000 (24 Volume Ill. Reg. 18486) |
| 140.445 | Amendment | December 29, 2000 (24 Volume Ill. Reg. 18999) |
| 140.446 | Amendment | December 29, 2000 (24 Volume Ill. Reg. 18999) |
| 140.447 | Amendment | December 29, 2000 (24 Volume Ill. Reg. 18999) |
| 140.494 | Amendment | August 4, 2000 (24 Volume Ill. Reg. 11539) |

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
 Office of the General Counsel, Rules Section
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763-0002
 (217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Long term care facilities

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 2000

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22 Magnetic Tape Billings
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited

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140.27 Assignment of Vendor Payments
 140.28 Record Requirements for Medical Providers
 140.30 Audits
 140.31 Emergency Services Audits
 140.32 Prohibition on Participation, and Special Permission for Participation
 140.33 Publication of List of Terminated, Suspended or Barred Entities
 140.35 False Reporting and Other Fraudulent Activities
 140.40 Prior Approval for Medical Services or Items
 140.41 Prior Approval in Cases of Emergency
 140.42 Limitation on Prior Approval
 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
 140.55 Recipient Eligibility Verification (REV) System
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
 140.72 Voucher Advance Payment and Expedited Payments
 140.73 Drug Manual (Recodified)
 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
 140.80 Hospital Provider Fund
 140.82 Developmentally Disabled Care Provider Fund
 140.84 Long Term Care Provider Fund
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust
 Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
 140.95 Hospital Services Trust Fund
 140.96 General Requirements (Recodified)
 140.97 Special Requirements (Recodified)
 140.98 Covered Hospital Services (Recodified)
 140.99 Hospital Services Not Covered (Recodified)
 140.100 Limitation On Hospital Services (Recodified)
 140.101 Transplants (Recodified)
 140.102 Heart Transplants (Recodified)
 140.103 Liver Transplants (Recodified)
 140.104 Bone Marrow Transplants (Recodified)
 140.110 Disproportionate Share Hospital Adjustments (Recodified)
 140.116 Payment for Inpatient Services for GA (Recodified)
 140.117 Hospital Outpatient and Clinic Services (Recodified)
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
 140.203 Limits on Length of Stay by Diagnosis (Recodified)
 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
 140.350 Copayments (Recodified)
 140.360 Payment Methodology (Recodified)

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140.361 Non-Participating Hospitals (Recodified)
 140.362 Pre July 1, 1989 Services (Recodified)
 140.363 Post June 30, 1989 Services (Recodified)
 140.364 Prepayment Review (Recodified)
 140.365 Base Year Costs (Recodified)
 140.366 Restructuring Adjustment (Recodified)
 140.367 Inflation Adjustment (Recodified)
 140.368 Volume Adjustment (Repealed)
 140.369 Groupings (Recodified)
 140.370 Rate Calculation (Recodified)
 140.371 Payment (Recodified)
 140.372 Review Procedure (Recodified)
 140.373 Utilization (Repealed)
 140.374 Alternatives (Recodified)
 140.375 Exemptions (Recodified)
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.391 Definitions (Recodified)
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
 140.400 Payment to Practitioners, Nurses and Laboratories
 140.410 Physicians' Services
 140.411 Covered Services By Physicians
 140.412 Services Not Covered By Physicians
 140.413 Limitation on Physician Services
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
 140.416 Optometric Services and Materials
 140.417 Limitations on Optometric Services
 140.418 Department of Corrections Laboratory
 140.420 Dental Services
 140.421 Limitations on Dental Services
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
 140.425 Podiatry Services
 140.426 Limitations on podiatry Services
 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
 140.428 Chiropractic Services

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140.527 Program (QUIP) (Repealed)
 140.528 Quality Incentive Survey (Repealed)
 140.529 Payment of Quality Incentive (Repealed)
 140.530 Reviews (Repealed)
 140.531 Basis of Payment for Long Term Care Services
 140.532 General Service Costs
 140.533 Health Care Costs
 140.534 General Administration Costs
 140.535 Ownership Costs
 140.536 Costs for Interest, Taxes and Rent
 140.537 Organization and Pre-Operating Costs
 140.538 Payments to Related Organizations
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 140.855 Definition of Terms (Repealed)
 140.860 Covered Services (Repealed)
 140.865 Sponsor Qualifications (Repealed)
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140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, P. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12866, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 29, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days;

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at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 1337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993;

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emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill.

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Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. _____, effective _____.

SUBPART E: GROUP CARE

Section 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services

- a) Beginning July 1, 1996, any individual, except those identified in subsection (c) of this Section, seeking admission to a nursing facility licensed under the Nursing Home Care Act [210 ILCS 45] for nursing facility services must be screened to determine his or her need for those services pursuant to this Section. Any individual who has been admitted to a nursing facility that operates under the Hospital Licensing Act [210 ILCS 85] or under Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3735] whose actual length of stay in such a facility exceeds 21 days, shall be screened to determine if the individual's need for continued nursing facility services. For the purposes of this Section, "nursing facility" means a location licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85] as a skilled or intermediate nursing facility or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act [42 U.S.C. 901 et seq.] or the Medicaid program under Title XIX of the Social Security Act.

- b) Screening Assessment

1) The Level I ID Screen is the first phase of the preadmission screening process. The Level I ID Screen is conducted to determine if there is a reasonable basis for suspecting that an individual has developmental disabilities (DD), as defined in subsection (b)(2)(A) of this Section below, or severe mental illness (MI), as defined in subsection (b)(1)(B) of this Section below. This determination is required to assure that individuals with DD or severe MI are placed into settings which provide the services they require. Entities authorized to complete the Level I ID Screen are agents of DPA, Department of Human Services (DHS), Mental Health and Developmental Disabilities (BMHDD), Department on Aging (DoA), Department of Rehabilitation Services (BORS), Department of Public Health (DPH), hospitals or nursing

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facilities.

- A) A developmental disability is a disability that is attributable to a diagnosis of mental retardation (mild, moderate, severe, profound, unspecified), or a related condition. A related condition means the individual has been diagnosed as having infantile autism, infantile cerebral palsy or epilepsy, and this condition is manifested before the age of 22; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following areas of major life activity:

- i) self-care;
- ii) understanding and use of language;
- iii) learning;
- iv) mobility;
- v) self-direction;
- vi) capacity for independent living.

- B) An individual is considered to have a severe mental illness if he or she has one of the following diagnoses: schizophrenia; delusional disorder; schizoaffective disorder; psychotic disorder not otherwise specified; bipolar disorder I - mixed, manic, and depressed; bipolar disorder II; cyclothymic disorder; bipolar disorder not otherwise specified; major depression, recurrent; and due to their mental illness exhibits resulting substantial functional limitations in at least two of the following areas:

- i) self-maintenance;
- ii) social functioning;
- iii) community living activities;
- iv) work related skills.

- 2) If the Level I ID Screen indicates that an individual may have DD or severe MI, a comprehensive assessment, the Level II assessment, except as defined in subsection (b)(7) of this Section, is conducted by BMHDD-designated preadmission screening (PAS) agents designated by DHS-Office of Developmental Disabilities or DHS-Office of Mental Health, whichever is applicable, concerning the need for nursing facility services and the need for specialized services.

- 3) If the Level I ID Screen does not identify a reasonable basis for suspecting DD or severe MI, the individual is referred to DoA (individuals 60 years of age or older) or DHS - Office of Rehabilitation Services BORS (individuals 18 through 59 years of age) for a Determination of Need to assess the need for nursing facility services.

- 4) For applicants of Medicaid services who are already residing in the facility and were admitted after June 30, 1996, the Department will review and evaluate a copy of the most recent Minimum Data Set (MDS) resident assessment instrument. The

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Department will refer to DOA7-BORS or DHSBMBH0, as appropriate, any light need resident who appears to be a potential candidate for community placement.

- 5) A screening assessment is valid for 90 calendar days from the date of the assessment. For individuals with DD or severe MI, an existing Level II assessment may remain valid after 90 calendar days when the designated BMBH0 PAS agent updates any component of the assessment which is not current, and confirms the validity of the assessment as reliably reflecting the status of the individual.

- 6) Due to exceptional circumstances, an individual identified as having DD or MI, following a Level I ID Screen, may be determined to need nursing facility services. The individual with exceptional circumstances must then receive a Level II assessment to determine the individual's need for specialized services related to placement in a nursing facility, except in the specific circumstances noted in subsection (b)(7) of this Section. Exceptional circumstances include, but are not limited to:

- A) terminal illness with a life expectancy of six months or less; and
 - B) convalescent care (a medically prescribed period of recovery, following acute care, not to exceed 120 calendar days); and
 - C) severe physical illnesses, such as coma, ventilator dependence, functioning at brain stem level or diagnoses such as chronic obstructive pulmonary disease, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis, and congestive heart failure; and
 - D) a diagnosis of dementia, including Alzheimer's disease or a related disorder, in the case of the individual with DD.
- 7) Level II assessment exemption. Some individuals with DD or severe MI may be admitted to a nursing facility without receiving a Level II assessment to determine the need for specialized services by a designated BMBH0 PAS agent. Individuals exempt from a Level II assessment for specialized services are provisional admissions pending further assessment in cases of delirium where an accurate diagnosis cannot be made until the delirium clears. In all other cases, a determination that specialized services are not needed must be based on a Level II assessment.
- 8) Screening agents shall present alternatives to institutional placement, and inform individuals of alternative settings before placement into a nursing facility.
- 9) Non-Medicaid supported individuals who choose to be admitted into a nursing facility when the screening assessment does not justify nursing facility placement will not be denied access to the facility.

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- c) A screening assessment does not apply to an individual who:
- 1) is receiving or will be receiving sheltered care services; or
 - 2) transfers from one facility to another, with or without an intervening hospital stay. It is the transferring facility's responsibility to ensure that copies of the resident's most recent screening assessment accompany the transferring resident; or
 - 3) resided in a facility for a period of at least 60 days and is returning to a facility after an absence of not more than 60 days; or
 - 4) is receiving or will be receiving hospice services; or
 - 5) ~~is admitted to a nursing facility from the community for respite care for a period of no more than 15 days; or~~
 - 6) ~~is admitted to a continuing care retirement community with which the individual has a life care contract; or~~
 - 57) is readmitted to a facility after a therapeutic home visit; or
 - 58) is readmitted to a facility from a hospital to which he or she was transferred for the purpose of receiving care; or
 - 79) resided in the facility on June 30, 1996.

d) Nursing Facility Services

In Illinois, nursing facilities are licensed for intermediate level nursing care and skilled level nursing care. For guidelines to the type of services provided by nursing facilities refer to 77 Ill. Adm. Code 300.Appendix A.

e) Date of Payment

- 1) No payment for nursing facility services may be made for individuals who:
 - A) have been determined eligible or have applied for Medicaid at the point of admission and ~~are admitted on or after July 17, 1996~~, unless both the screening assessment and a physician's certification, as described in Section 140.514, document a need for such care; or
 - B) ~~were residing in the facility on or apply for Medicaid while residing in the facility after June 30, 1996~~ unless a physician's certification documents a need for such care.
- 2) The date of the physician certification will not be used to determine the begin date of payment; however, the physician certification shall be completed before Medicaid payment is authorized. The begin date of payment will be determined in accordance with subsection (e)(4), (5) or (6) of this Section, whichever is applicable.
- 32) Where the assessment does ~~or the certification do~~ not establish this need, the individual may request that a licensed physician designated by DPA review the medical reports and any other evidence the individual wishes to submit, and certify whether there is a need for nursing facility services in the individual's case. The individual will be notified of the right to this review.

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- 43) For an individual whose preadmission screening assessment has and physician's--certification--have been completed prior to admission and document the individual's need for such services, DPA will begin payment:
- A) on the date of admission if Medicaid eligibility has been established, or
 - B) on the beginning date of Medicaid eligibility if eligibility starts after the date of admission.
- 54) For an individual whose preadmission screening assessment has and physician's--certification--have not been completed prior to admission, DPA will begin payment on the later of:
- A) the date that the screening assessment requirement is met, or
 - B) the date--that--the--physician--certification--requirement--is met--or
- B) the effective date of Medicaid eligibility.
- 65) For an individual who applies for Medicaid after admission to a facility, DPA will begin payment on the later of: A) the date that the physician certification requirement is met, or B) the effective date of Medicaid eligibility.
- 6) Annual Resident Review
- All Medicaid-eligible residents found to be MI or BB shall be reviewed by BPA or its agents annually. Annual resident reviews are required by federal regulations found under 42 CFR 483.114. The federality required annual resident review validates the presence of MI or BB and determines whether the individual requires the level of services provided by a nursing facility and whether the individual requires specialized services.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Income Tax
 - 2) Code Citation: 86 Ill. Adm. Code 100
 - 3) Section Numbers: Proposed Action:
100.9720 New
 - 4) Statutory Authority: 35 ILCS 5/1401
 - 5) A Complete Description of the Subjects and Issues Involved: This shrulemaking provides guidance on when Illinois is prohibited from imposing its income tax on a nonresident taxpayer by federal Public Law 86-272 or by specific Illinois statutory provisions. The rulemaking on Public Law 86-272 is based on a report by the Multistate Tax Commission on the application of that law.
 - 6) Will this proposed amendment replace an emergency rule currently in effect? No
 - 7) Does this rulemaking contain an automatic repeal date? No
 - 8) Does this proposed amendment contain incorporations by reference? No
 - 9) Are there any other proposed amendments pending on this Part? Yes
- | | | |
|------------------------|------------------------|------------------------------|
| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>IL Register Citation</u> |
| 100.9710 | New | 24 Ill. Reg. 16957, 11/17/00 |
| 100.5130 | Amendment | 24 Ill. Reg. 17496, 12/01/00 |
| 100.2165 | Amendment | 24 Ill. Reg. 17713, 12/08/00 |
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
 - 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:
- Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-7055
- 12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will provide small businesses located outside Illinois and selling tangible personal property to Illinois customers with guidance on their Illinois income tax liabilities.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000
100.2050

Introduction
Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

Replacement Tax Investment Credit (IITA 201(e))

Investment Credit; Enterprise Zone (IITA 201(f))

Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

Investment Credit; High Impact Business (IITA 201(h))

Credit Against Income Tax for Replacement Tax (IITA 201(i))

Training Expense Credit (IITA 201(j))

Research and Development Credit (IITA 201(k))

Education Expense Credit (IITA 201(m))

Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

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 TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended

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at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. _____, effective _____.

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Section 100.9720 Nexus

- a) IITA Section 201(a) imposes the Illinois Income Tax, a tax measured by net income, on *individuals, corporations, trusts and estates for the privilege of earning or receiving income in or as a resident of this State*. IITA Section 201(c) imposes a second tax measured by net income, the Personal Property Tax Replacement Income Tax, on *corporations, partnerships and trusts for the privilege of earning or receiving income in or as a resident of this State*. In general, a resident of this State will always be subject to these taxes. Activity conducted in interstate commerce may establish sufficient nexus with Illinois to permit imposition of these taxes on a non-resident taxpayer, as well, when the non-resident earns or receives income in this State within the meaning of the IITA. Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 97 S. Ct. 1076 (1977); Quill v. North Dakota, 504 U.S. 298, 112 S. Ct. 1904 (1992).
- b) Standards for determining sufficient tax nexus are found in federal statutes regulating interstate commerce, in United States Constitutional jurisprudence, and in Illinois tax statutes.
- c) The scope of federal statutes limiting nexus for imposition of Illinois income and replacement taxes are described in this subsection (c):

- i) Public Law 86-272. In 1959, Congress enacted PL 86-272 (15 USC 381-384), which prohibits states and their political subdivisions from imposing a net income tax on nonresident taxpayers who operate primarily in interstate commerce and whose activity within a state is limited. PL 86-272 provides in pertinent part:
- A) No state or political subdivision thereof shall have the power to impose . . . a net income tax on the income derived within such state by any person from interstate commerce if the only business activities within such state by or on behalf of such person during such taxable year are either, or both of the following:
- ii) the solicitation of orders by such person, or his representative, in such state for sales of tangible personal property, which orders are sent outside the state for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the state; and
- iii) the solicitation of orders by such person, or his representative, in such state in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitation are orders described in paragraph (1).
- B) The provisions of subsection (c)(1)(A) shall not apply to the imposition of a net income tax by any State or political subdivision thereof, with respect to --

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- i) Any corporation which is incorporated under the laws of such state; or
- ii) any individual who, under the laws of such state, is domiciled in, or a resident of, such state.
- C) For the purposes of subsection (c)(1)(A), a person shall not be considered to have engaged in business activities within a state during any taxable year merely by reason of sales in such state, or the solicitation of orders for sales in such state, of tangible personal property on behalf of such person by one or more independent contractors whose activities on behalf of such person in such state consist solely of making sales, or soliciting orders for sales, of tangible personal property.
- D) For purposes of this subsection (c)(1)--
- i) The term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders for the sale of tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities; and
- ii) the term "representative" does not include an independent contractor.

- 2) The terms of PL 86-272 affect nexus for taxation under the IITA according to the following principles:

- A) If a nonresident taxpayer's activities exceed "mere solicitation", as set forth in subsection (a) of PL 86-272 (subsection (c)(1)(A) of this Section), it obtains no immunity under that federal statute. The taxpayer is subject to Illinois income tax and personal property tax replacement income tax for the entire taxable year and its business income is apportioned under IITA Section 304. Whether a nonresident taxpayer's conduct exceeds "mere solicitation" depends upon the facts in each particular case.
- B) Nature of Property Being Sold
- i) PL 86-272 immunizes solicitation only for sale of tangible personal property. Efforts to sell intangibles, such as services, franchises, patents, copyrights, trademarks and service marks, are not protected, nor is solicitation for the leasing, renting or licensing of tangible personal property. The sale, delivery and the solicitation for the sale or delivery of any type of service that is not either ancillary to solicitation, or otherwise set forth as a protected activity under subsection (c)(5), is also not protected under PL 86-272 or this Section.
- C) Solicitation of Orders. Solicitation of orders means speech or conduct that explicitly or implicitly invites an order

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- and activity ancillary to invitations for an order.
- i) To be ancillary to invitations for orders, an activity must serve no independent business function for the seller apart from its connection to the solicitation of orders.
 - ii) Activity that a seller would engage in apart from soliciting orders shall not be considered ancillary to the solicitation of orders.
 - iii) Assignment of an activity to a salesperson does not, merely by such assignment, make that activity ancillary to solicitation of orders.
 - iv) Activity that attempts to promote sales is not ancillary, nor is activity that facilitates sales. PL 86-272 only protects ancillary activity that facilitates the invitation of an order.
- D) De minimus activities are those that, when taken together, establish only a trivial additional connection with this State. An activity regularly conducted within this State on a regular or systematic basis or pursuant to a company policy (whether such policy is in writing or not) shall normally not be considered trivial. Whether an activity consists of a trivial or non-trivial additional connection with this State is to be measured on both a qualitative and quantitative basis. If the activity either qualitatively or quantitatively creates a non-trivial connection with this State, then the activity exceeds the protection of PL 86-272. The amount of unprotected activities conducted within this State relative to the amount of protected activities conducted within this State is not determinative of the issue of whether the unprotected activities are de minimus. The determination of whether an unprotected activity creates a non-trivial connection with this State is made on the basis of the taxpayer's entire business activity, not merely its activities conducted within this State. An unprotected activity that would not be de minimus if it were the only business activity of the taxpayer conducted in this State will not be de minimus merely because the taxpayer also conducts a substantial amount of protected activities within this State, nor will an unprotected activity that would be de minimus if conducted in conjunction with a substantial amount of protected activities fail to be de minimus merely because no protected activities are conducted in this State.
- 3) Listing of Specific Unprotected and Protected Activities.
 - A) Subsection (c)(4) lists specific activities that are considered to be beyond "mere solicitation" and, therefore, unprotected by PL 86-272.
 - B) Subsection (c)(5) lists specific activities that are

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- considered by this State to be "protected activities". Included on the list of "protected activities" are those specific activities that are protected by PL 86-272 and those specific activities that this State, in its discretion, deems worthy of protection. Inclusion of an activity on the listing of "protected activities" is neither a declaration nor an admission by this State that the activity must be afforded protection under PL 86-272.
- 4) Unprotected Activities. The following activities (assuming they are not de minimus) do not constitute "mere solicitation" of orders, nor are they ancillary, nor otherwise protected under PL 86-272. If one or more of the following activities are to the solicitation of orders conducted within this State, an otherwise protected nonresident taxpayer shall become subject to taxation by Illinois.
- A) Making repairs or providing maintenance or service to the property sold or to be sold.
 - B) Collecting current or delinquent accounts, whether directly or by third parties, through assignment or otherwise.
 - C) Investigating credit worthiness.
 - D) Installation or supervision of installation at or after shipment or delivery.
 - E) Conducting training courses, seminars or lectures for personnel other than personnel involved only in solicitation of sales of tangible personal property.
 - F) Providing any kind of technical assistance or services, including, but not limited to, engineering assistance or design service, when one of the purposes of the assistance or service is other than the facilitation of the solicitation of orders.
 - G) Investigating, handling, or otherwise assisting in resolving customer complaints, other than mediating direct customer complaints when the sole purpose of such mediation is to inordinate the sales personnel with the customer.
 - H) Approving or accepting orders.
 - I) Repossessing property.
 - J) Securing deposits on sales.
 - K) Picking up or replacing damaged or returned property.
 - L) Hiring, training, or supervising personnel, other than personnel involved only in solicitation.
 - M) Maintaining a sample or display room in excess of two weeks (14 days) at any one location within the State during the tax year.
 - N) Carrying samples for sale, exchange or distribution in any manner for consideration.
 - O) Owning, leasing, or maintaining any of the following facilities or property in-state:
 - i) Repair shop.

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- ii) Parts department.
- iii) Any kind of office other than an in-home office as described as permitted under subsections (c)(4)(Q) and (c)(5)(B).
- iv) Warehouse.
- v) Meeting place for directors, officers, or employees.
- vi) Stock of goods other than samples for sales personnel or that are used entirely ancillary to solicitation.
- vii) Telephone answering service that is publicly attributed to the nonresident or to an employee or agent of the nonresident in his or her representative status.
- viii) Mobile stores, i.e., vehicles with drivers who are sales personnel making sales from the vehicles.
- ix) Real property or fixtures to real property of any kind.
- P) Consigning stock of goods or other tangible personal property to any person, including an independent contractor, for sale.
- Q) The maintenance of any office or other place of business in this State that does not strictly qualify as an "in-home" office as described in subsection (c)(5)(M) shall, by itself, cause the loss of protection under PL 86-272. A telephone listing or other public listing within the State for the nonresident or for an employee or other representative of the nonresident in such capacity or other indication through advertising or business literature that the nonresident or its employee or representative can be contacted at a specific address within the State shall normally be determined as the nonresident maintaining within this State an office or place of business attributable to the nonresident or to its employee or representative in a representative capacity. However, the normal distribution and use of business cards and stationary identifying the employee's or representative's name, address, telephone and fax numbers and affiliation with the nonresident shall not, by itself, be considered as advertising or otherwise publicly attributing an office to the nonresident or to its employee or other representative.
- R) Entering into franchising or licensing agreements; selling or otherwise disposing of franchises and licenses; or selling or otherwise transferring tangible personal property pursuant to such franchise or license by the franchiser or licensor to its franchisee or licensee within the State.
- S) Shipping or delivering goods into this State by means of vehicles or other modes of transportation owned or leased by the nonresident taxpayer or by means of private carrier, whether by motor vehicle, rail, water, air or other carrier

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- and irrespective of whether a shipment or delivery fee or other charge is imposed, directly or indirectly, upon the purchaser.
- T) Conducting any activity that is not on the list of "protected activities" in subsection (c)(5), and that is not entirely ancillary to requests for orders, even if the activity helps to increase purchases.
- 5) Protected Activities. The following in-state activities will not cause the loss of immunity for otherwise protected sales:
 - A) Soliciting orders for sales by any type of advertising.
 - B) Soliciting orders for sales by an in-state resident employee or representative of the nonresident, so long as that person does not maintain or use any office or place of business in the State besides an "in-home" office as described in Section (c)(5)(M).
 - C) Carrying samples and promotional materials only for display or for distribution without charge or other consideration.
 - D) Furnishing and setting up display racks and advising customers on the display of the nonresident's products without charge or other consideration.
 - E) Providing automobiles to sales personnel for their use in conducting protected activities.
 - F) Passing orders, inquiries and complaints on to the home office.
 - G) Missionary sales activities; i.e., the solicitation of indirect customers for the nonresident's goods. For example, a manufacturer's solicitation of retailers to buy the manufacturer's goods from the manufacturer's wholesale customers would be protected if those solicitation activities are otherwise immune.
 - H) Coordinating shipment or delivery without payment or other consideration and providing information relating to shipment or delivery either prior or subsequent to the placement of an order.
 - I) Checking of customers' inventories without charge (for re-order, but not for other purposes such as quality control).
 - J) Maintaining a sample or display room for two weeks (14 days) or less at any one location within the State during the tax year.
 - K) Recruiting, training or evaluating sales personnel, including occasionally using homes, hotels or similar places for meetings with sales personnel.
 - L) Mediating direct customer complaints when the purpose is solely for ingratiating the sales personnel with the customer and facilitating requests for orders.
 - M) Owning, leasing, using or maintaining personal property for use in the employee's or representative's "in-home" office

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located within the residence of the employee or other representative that is not publicly attributed to the nonresident or to the employee or other representative of the nonresident in a representative capacity or automobile, when that use is solely limited to the use of conducting protected activities. Therefore, the use of personal property such as a cellular telephone, facsimile machine, duplicating equipment, personal computer and computer software, shall not, by itself, remove the protection under this Section, so long as the use of the office is limited to:

- i) soliciting and receiving orders from customers;
- ii) transmitting the orders outside the State for acceptance or rejection by the nonresident; or
- iii) other activities that are protected under PL 86-272 or this Section.

6) Independent Contractors. PL 86-272 provides immunity to certain in-state activities, if conducted by an independent contractor, that would not be afforded if performed by the nonresident or its employees or other representatives.

A) Notwithstanding the provisions of subsection (c)(4), independent contractors may engage in the following limited activities in the State without the nonresident's loss of immunity:

- i) soliciting sales;
- ii) making sales;
- iii) maintaining an office.

B) Sales representatives who represent a single principal are not considered to be independent contractors and are subject to the same limitations as those provided under PL 86-272 and this Section.

C) Maintenance of a stock of goods in the State, by the independent contractor under consignment or any other type of arrangement with the nonresident, except for purposes of display and solicitation, shall remove the protection.

7) Application of Destination State Law in Case of Conflict.

A) When it appears that Illinois and one or more other states that are signatories to the "Statement of Information concerning practices of the Multistate Tax Commission and Signatory States under PL 86-272" have included or will include the same receipts from a sale in their respective sales factor numerators, at the written request of the nonresident, the states will, in good faith, confer with one another to determine which state should be assigned the receipts. The conference shall identify what law, regulation or written guideline, if any, has been adopted in the state of destination with respect to the issue. The state of destination shall be that location at which the

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purchaser or its designee actually receives the property, regardless of F.O.B. point or other conditions of sale.

B) In determining which state is to receive the assignment of the receipts at issue, preference shall be given to any clearly applicable law, regulation or written guideline that has been adopted in the state of destination. However, except in the case of the definition of what constitutes "tangible personal property", Illinois is not required by this Section to follow any other state's law, regulation or written guideline should Illinois determine that to do so:

- i) would conflict with Illinois laws, regulations, or written guidelines; and
- ii) would not clearly reflect the income-producing activity of the nonresident within Illinois.

C) Notwithstanding any provision set forth in this Section to the contrary, as between Illinois and any other signatory state, Illinois agrees to apply the definition of "tangible personal property" that exists in the state of destination to determine the application of PL 86-272 and issues of throwback, if any. Should the state of destination not have any applicable definition of tangible personal property so that it could be reasonably determined whether the property at issue constitutes tangible personal property, then each signatory state may treat the property in any manner that would clearly reflect the income-producing activity of the nonresident within that state.

8) Application of this Section to Foreign Commerce

A) PL 86-272 specifically applies, by its terms, to "interstate commerce" and does not directly apply to foreign commerce. The states are free, however, to apply the same standards set forth in PL 86-272 to business activities in foreign commerce to ensure that foreign and interstate commerce are treated on the same basis. Such an application also avoids the necessity of expensive and difficult efforts in the identification and application of the varied jurisdictional laws and rules existing in foreign countries.

B) Illinois will apply the provisions of PL 86-272 and of this Section to business activities conducted in foreign commerce. Therefore, whether business activities are conducted by a nonresident selling tangible personal property into a country outside of the United States from a point within Illinois or by a nonresident selling such property into this State from a point outside of the United States, the principles under this Section apply equally to determine whether the sales transactions are protected and the nonresident is immune from taxation in either Illinois or in the foreign country, as the case might be, and whether, if applicable, this State will apply its throwback

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provisions.

9) Application to Corporation Incorporated in this State or to a Person Resident or Domiciled in this State. The protection afforded by PL 86-272 and this Section does not apply to any corporation incorporated within Illinois or to any person who is a resident of or domiciled in Illinois.

10) Registration or Qualification to do Business. A business that registers or otherwise formally qualifies to do business within Illinois does not, by that fact alone, lose its protection under PL 86-272.

11) Loss of Protection for Conducting Unprotected Activity During Part of a Tax Year. The protection afforded under PL 86-272 and this Section shall be determined on a tax year by tax year basis. Therefore, if at any time during a tax year the nonresident conducts activities that are not protected under PL 86-272 or this Section, no income earned or received in this State by the nonresident during any part of that tax year shall be protected from taxation under PL 86-272 or this Section.

d) Illinois Statutory Provisions. PA 88-361 amended the Illinois Income Tax Act to provide that a person not otherwise subject to the tax imposed under the IITA shall not become subject to the tax imposed by the IITA by reason of:

1) that person's ownership of tangible personal property located at the premises of a printer in this State with which the person has contracted for printing; or

2) activities of the person's employees or agents located solely at the premises of a printer and related to quality control, distribution, or printing services performed by a printer in the State with which the person has contracted for printing. (IITA Section 205(f))

e) U.S. Constitutional Jurisprudence. If not protected by U.S. or Illinois statute, an income-producing activity may, nonetheless, be protected from State taxation by principles of U.S. Constitutional jurisprudence. Controlling decisions that assert protections afforded by the Interstate Commerce Clause, the Foreign Commerce Clause and the Due Process Clause are accepted by this State as limitations on the reach of its income tax and personal property tax replacement income tax statutes. However, nothing stated in this subsection (e) shall prevent Illinois from challenging taxpayer assertions of U.S. Constitutional protection.

f) Application of the Joyce Rule. In determining whether the activity of a nonresident taxpayer conducted in this State is sufficient to create nexus for application of Illinois income tax or replacement tax, the principles established in Appeal of Joyce Inc., Cal. St. Bd. of Equal. (11/23/66), commonly known as the "Joyce rule", shall apply. Only activity conducted by or on behalf of the nonresident taxpayer shall be considered for this purpose. Because the income of a partnership, a Subchapter S corporation or any other pass-through

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entity is treated as income of its owners, activity of a pass-through entity is conducted on behalf of its owners. Activity conducted by any other person, whether or not affiliated with the nonresident taxpayer, shall not be considered attributable to the taxpayer, unless the other person was acting in a representative capacity on behalf of the taxpayer.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3) Section Numbers
1010.420
1010.421
Proposed Action:
Amendment
Amendment
- 4) Statutory Authority: Illinois Vehicle Code, Sections 2-104(b) and 3-407(a). [625 ILCS 5/3-407(a) and 104(b)]
- 5) A Complete Description of the Subjects and Issues Involved: The Secretary of State intends to amend these Sections to provide for the issuance of motor vehicle temporary registration permits (TRP) in the format of a standard license plate rather than as a paper card; to require the TRP plates to be displayed on vehicles in the space designed for the permanent rear license plate; to require the issuers of TRP's to notify the Secretary of State via the Internet when a TRP has been issued, including providing the TRP number and information as to the vehicle and persons or entity to which it was issued; thus allowing the Secretary of State to enter this information into the Law Enforcement Agencies' Data System (LEADS) so it may be available to law enforcement officers.

The purpose of this program is to enhance public safety and to assist police agencies in carrying out their official duties. At this time a TRP card displayed in the rear window of a vehicle provides no information discernable from a distance concerning the vehicle to which the card was issued, the persons or entity to which it was issued, or the validity of the card. Only upon close inspection can the information on the card be examined, and even then there is no readily available method of verifying the accuracy of the information. Moreover, these cards are particularly susceptible to being illegally altered and manufactured. The use of these cards can enable criminals to travel nearly incognito, reducing the chance of being identified as they flee from the scene of a crime. Moreover, the lack of information verifiable through LEADS unnecessarily places police officers at risk as they stop and approach vehicles bearing TRP cards. With a TRP plate clearly displaying a distinctive number, the police officer can verify the legitimacy of the plate, and determine the vehicle and persons or entity to which the plate was issued before approaching a vehicle.

- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No

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- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands a State mandate on any unit of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: A 45 day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to this written comment period, a public hearing on the proposed amendments will be held on March 15, 2001, at 1:00 p.m., in the James R. Thompson Center Auditorium, 100 West Randolph Street, Chicago, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Nathan Maddox
Assistant General Counsel
Howlett Building, Room 298
Springfield IL 62756

In order for mailed comments to be available for consideration at the public hearing, they must be received by March 13, 2001. All comments received during the comment period will be fully considered by the Secretary of State.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: New and used motor vehicle dealers, currency exchanges and remittance agents.
- B) Reporting, bookkeeping or other procedures required for compliance: All issuers of TRP plates will be required keep written copies of receipts issued with TRP plates. Issuers will also be required to have the computer hardware, software and communication devices necessary for accessing the Secretary of State's internet site or other designated on-line access procedure for the registration of Temporary Permit plates.
- C) Types of professional skills necessary for compliance: Elementary computer skills related to the operation of a personal computer

- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010

CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

Vehicle A: DEFINITIONS

Section
1010.10
1010.20Owner--Application of Term
Secretary and Department

Vehicle B: TITLES

Section
1010.110

Salvage Certificate--Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate

Salvage Certificate--Assignments and Reassignments

Exclusiveness of Lien on Certificate of Title

Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards

Transferring Certificates of Title Upon the Owner's Death

Repossession of Vehicles by Lienholders and Creditors

Junking Notification

Specialty Constructed Vehicles - Defined

Specialty Constructed Vehicles - Required Documentation for Title and Registration

Issuance of Title and Registration Without Standard Ownership Document - Bond

1010.190

Vehicle C: REGISTRATION

Section
1010.210
1010.220
1010.230
1010.240
1010.250

Application for Registration

Vehicles Subject to Registration--Exceptions

Refusing Registration or Certificate of Title

Registration Plates To Be Furnished By The Secretary of State

Applications For Reassignment

Vehicle D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section
1010.300
1010.310
1010.320

Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration

Improper Use of Evidences of Registration

Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles

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Operation of Vehicle Without Proper Illinois Registration

Suspension or Revocation

Surrender of Plates, Decals or Cards

1010.330
1010.350
1010.360

Vehicle E: SPECIAL PERMITS AND PLATES

Section
1010.410
1010.420
1010.421

Temporary Registration--Individual Transactions

Temporary Permit Pending Registration in Illinois

Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State

1010.425
1010.426
1010.430

Non-Resident Drive-Away Permits

Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks

Title and Registration of Vehicles with Permanently Mounted Equipment

1010.450
1010.451
1010.452
1010.453
1010.454

Special Plates

Purple Heart License Plates

Special Event License Plates

Retired Armed Forces Licenses Plates

Gold Star License Plates

Collectible License Plates

Sample License Plates For Motion Picture and Television Studios

Korean War Veteran License Plates

Collegiate License Plates

Special Plates for Members of the United States Armed Forces Reserves

1010.470
1010.480

Dealer Plate Records

State of Illinois In-Transit Plates

Vehicle F: FEES

Section
1010.510
1010.520
1010.530
1010.540

Determination of Registration Fees

When Fees Returnable

Circuit Breaker Registration Discount

Maximum Fees for Distribution of Motor Vehicle Renewal Plates and/or Stickers

Vehicle G: MISCELLANEOUS

Section
1010.610
1010.620

Unlawful Acts, Fines and Penalties

Change of Engine

Vehicle H: SECOND DIVISION VEHICLES

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Section
1010.705 Reciprocity
1010.710 Vehicle Proration
1010.715 Proration Fees
1010.720 Vehicle Apportionment
1010.725 Trip Leasing
1010.730 Intrastate Movements, Foreign Vehicles
1010.735 Interline Movements
1010.740 Trip and Short-term Permits
1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.750 Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755 Mileage Tax Plates
1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760 Transfer for "For-Hire" Loads
1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775 Certificate of Safety

APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill.

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Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6948, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. _____, effective _____.

SUBPART E: SPECIAL PERMITS AND PLATES

Section 1010.420 Temporary Permit Pending Registration In Illinois

a) General Provisions

1) For the purpose of this Part, Illinois Temporary Registration Permit (hereinafter referred to as Temporary Permit) shall refer to a temporary card or plate, issued or provided by the Secretary of State, which allows the operation of a vehicle after proper application has been made and fees received, until the receipt of registration plates and/or sticker.

2) The Secretary of State shall determine whether Temporary Permits are to be issued in the form of Temporary Permit cards or Temporary Permit plates or both, and shall prescribe the form and content of the Temporary Permit card and plate. If Temporary Permit plates are utilized, they shall include both a standard size plate and a reduced size plate for use on motor driven cycles or motorcycles. The Secretary of State shall issue the Temporary Permit and no other document shall be deemed a valid Temporary Permit. This provision shall in no way be construed as restricting the provisions of Section 3-401 of the Illinois Vehicle Code.

3) The Secretary of State shall determine whether an issuer of Temporary Permits will be authorized to issue Temporary Permit cards or Temporary Permit plates or both. If the Secretary of State determines that only Temporary Permit plates are to be issued in Illinois, entities authorized to issue Temporary Permits pursuant to Section 1010.421 of this Part shall have the necessary computer hardware, software and communication devices for accessing the Secretary of State's internet site for the registration of Temporary Permit plates.

4) The Temporary Permit shall not be valid for more than 60-days-490 days for---vany---and---personalized---plates, from the date of issuance, unless extended or reduced at the discretion of the Secretary of State. In exercising that discretion, the Secretary

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- of State shall take into consideration the following factors:
- A) The nature and type of application;
 - B) The availability of the registration plates and/or stickers applied for;
 - C) The processing time for the application;
 - D) Other relevant matters affecting the issuance thereof.
- In any event, once the applied-for registration plates and/or stickers have been issued to and received by the applicant, the Temporary Permit is void.
- 54) The Temporary Permit card or plate must be displayed on the vehicle for which it is issued as follows:
 - A) The Temporary Permit card may be displayed in the lower left corner of the back window;
 - B) The Temporary Permit card may be displayed in the lower left corner of the front window;
 - C) The Temporary Permit card may be displayed in the lower right corner of the front window;
 - D) The Temporary Permit plate shall be securely attached to the rear of the vehicle in the space designed for the permanent registration plate, consistent with the provisions of Section 3-413(b) of the Illinois Vehicle Code.
- The Temporary Permit must be removed upon receipt of the registration plates and/or sticker. The Temporary Permit is not transferable from one person to another, nor from vehicle to vehicle.
- b) Newly Acquired Vehicles
 - A) Temporary Permit to operate a newly acquired vehicle for which a valid application for title and registration has been filed, accompanied with the proper fees, may be issued by or for the Secretary of State to the buyer of such vehicle, pending action upon said application.
 - c) Renewal Registrations

In the event that an individual fails to renew a registration plate or sticker upon expiration, a Temporary Permit may be issued only by a Secretary of State facility, or remittance agent, and only under the following circumstances:

 - 1) The applicant presents proof of ownership of the vehicle through a title, preprinted application, I.D. Card, or through verification of ownership some by the records of the Secretary of State.
 - 2) The applicant presents payment of all fees due.
 - 3) The renewal registration plates and/or stickers are not readily available at a financial institution, as defined in Section 1010.240 of this Part.
 - 4) The appropriate registration stickers or registration plates are not immediately available at a facility.
 - d) Miscellaneous Provisions

The Secretary of State may also issue Temporary Permits only at

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- official State of Illinois facilities in any of the following situations:
- 1) If an individual has made application for registration, either renewal or otherwise, prior to expiration and does not receive the registration by the expiration date. The individual must present proof thereof acceptable to the Secretary of State;
 - 2) Any situation where the individual makes proper application for title and registration, or registration alone, and the Secretary of State is unable to issue the appropriate registration at that time.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)
- Section 1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State**
- a) In addition to the issuance of Temporary Permits to specific applicants, the Secretary of State may supply issue, upon request, blank Temporary Permit cards or Temporary Permit plates Permits to the following for issuance completion by them, provided they have the necessary computer hardware, software and communication devices for accessing the Secretary of State's internet site for the registration of Temporary Permit plates:
 - 1) Licensed vehicle dealers registered and in good standing with the Secretary of State. Each dealer may issue Temporary Permits only to persons purchasing vehicles from that dealer and only after application for title and registration has been completed. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue such permits to any dealer or demand return of unused permits for violating any provision of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code, for the failure to keep records required by this subsection (a)(1), or for any other violation relating to the use or issuance of Temporary Permits. All dealers receiving such Temporary Permits shall maintain records reflecting the information required for completion of the Temporary Permit card or the receipt form for a Temporary Permit Plate of--all--Temporary-Permits-issued-as-prescribed-in-Section 5-401.2-of-the-Illinois-Vehicle-Code. Failure to do so could result in the denial, revocation, or suspension of a dealer's license under Section 5-501 of the Illinois Vehicle Code.
 - 2) Licensed remittance agents registered and in good standing with the Secretary of State. Each Remittance Agent remittance-agent may issue Temporary Permits only to persons whose applications the remittance agent accepts for transmittal to the Secretary of State. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue such

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permits to any remittance agent or demand return of unused permits for violating any provision of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code, for failure to keep records required by this subsection (a)(2), or for any other violation relating to the use or issuance of Temporary Permits. All Remittance Agents receiving such Temporary Permits ~~permits~~ shall maintain records ~~thereof~~ reflecting the information required for completion of the Temporary Permit card or the receipt form for a Temporary Permit ~~as prescribed in Section 3-910 of the Illinois Vehicle Code~~. Failure to do so could result in the denial, revocation, or suspension of a Remittance Agent's license under Sections 3-906 and 3-907 of the Illinois Vehicle Code.

3) Currency Exchanges licensed by, and in good standing with, the Department of Financial Institutions. Currency Exchanges shall complete and submit an application in a manner prescribed by the Secretary of State to be eligible to receive Temporary Permits ~~Permit-books~~. Each Currency Exchange may issue Temporary Permits only to persons whose applications the Currency Exchange accepts for transmittal to the Secretary of State. A Temporary Permit may only be issued in connection with an application for title and registration or registration only, but may not be issued in connection with an application for renewal of a registration. All Currency Exchanges receiving Temporary Permits shall maintain records of their issuance ~~thereof~~, reflecting the information required for completion of ~~contained in~~ the Temporary Permit card or the receipt form for a Temporary Permit plate. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue Temporary Permits to any Currency Exchange that has committed any violation of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code ~~thereof~~, for failure to keep records required by this subsection (a)(3) ~~herein~~, or for any other violation relating to the use or issuance of Temporary Permits.

b) Issuers of Temporary Permits must be in compliance with the following:

1) Temporary permits shall be issued in numerical sequence as received from the Secretary of State. Temporary Permit plates shall be issued only in conjunction with applications for vehicle registration and all required information regarding the Temporary Permit plate shall be completed on the vehicle registration application form.⁷

2) Contemporaneous with the issuance of a Temporary Permit plate, the issuer shall access the Secretary of State's internet site for the registration of Temporary Permit plates and enter all requested information with regard to the vehicle for which the Temporary Permit plate was issued and the individual(s) or entity to which the Temporary Permit plate was issued. When accessing the Secretary of State's internet site and entering information,

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issuers shall comply with all protocols provided by the Secretary of State, including, but not limited to, user identification procedures and password.

3) Prior to delivering a Temporary Permit plate to the applicant or attaching a Temporary Permit plate to a vehicle, the issuer shall physically remove the areas of the plate designating the month and the final digit of the year the plate will expire and designating whether the plate is being issued for a vehicle of the first division or second division.

4) Temporary Permit plates issued for motor driven cycles or motorcycles shall be of the reduced size designed for motor driven cycles or motorcycles.

5) Temporary permits shall be issued only by the Dealer, Remittance Agent, or Currency Exchange that received the Temporary Permit from the Secretary of State.⁷

6) Temporary Permit ~~permits~~ cards and Temporary Permit plates receipt forms shall contain all of the information requested, where applicable. The original of the plate receipt form shall be given to the applicant and the copy shall be maintained by the issuer.⁷

7) Temporary Permit ~~permits~~ cards and Temporary Permit plate receipt forms shall bear the name of the issuing entity and the signature of the issuing employee.⁷

8) Issuers of Temporary Permits shall reimburse the Secretary of State \$50 per Temporary Permit ~~permit~~ for lost, missing, stolen, or destroyed Temporary Permits ~~permits~~. The Secretary of State shall have the discretion to waive this fee upon satisfactory proof that the Temporary Permits were destroyed by fire or flood, or stolen in connection to a theft of the premises. In the decision to waive the fee, the Secretary of State shall consider whether an insurance claim or police report was filed, or other evidence suggesting that the issuer's loss is the result of fire, flood, or theft of the premises.⁷

9) Issuers shall maintain copies of all Temporary Permit cards and receipt forms for all Temporary Permit plates ~~permits~~ issued for a period of 3 years. When a second or subsequent Temporary Permit card is issued for the same vehicle, the original Temporary Permit card or plate receipt form must be attached to the duplicate of the replacement Temporary Permit card or plate receipt form. If the subsequent Temporary Permit is issued by a different issuer than the original Temporary Permit, the previous Temporary Permit ~~permit~~ number and issuance date shall be recorded on the record copy of the subsequent Temporary Permit card or plate receipt form.⁷

10) When the issuer is no longer engaged in the business of issuing Temporary Permits, the issuer shall return all Temporary Permit ~~Temporary-permit~~ books for which Temporary Permits ~~permits~~ were issued, and all unissued Temporary Permit cards and/or plates

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Permits to the Secretary of State. Issuer shall bear risk of loss until all Temporary Permits are received by the Secretary of State.

c) The Secretary of State shall have free access to the offices and places of business to examine fully all temporary permit books and other business records, documents, and files of the issuer to determine whether such issuer is complying with the provisions of this Section.

d) The issuer is responsible for acts or omissions of issuer's employees while engaged in the distribution of Temporary Permits.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Hospital Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 250

3) Section Numbers: Adopted Action:

250.2420 Amendment

250.2430 Amendment

250.2440 Amendment

250.2460 Amendment

4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

5) Effective Date of Rulemaking: February 15, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 18, 2000 - 24 Ill. Reg. 12405

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 250.2420(a)(2)(A), "being issued for pricing" was deleted and "the beginning of construction" was added.

2. In Section 250.2420(a)(2)(A), "Changes...Department" was deleted.

3. In Section 250.2430(a)(5), "As built" was changed to "As-built".

4. In Section 250.2430, "and specifications for these systems" was added after "drawing".

5. In Section 250.2430, "and specifications for these systems" was added after "drawing".

6. In Section 250.2430(b)(2)(E), "Soil bearing" was changed to "soil-bearing".

7. In Section 250.2430(b)(3)(A)(v), "Pumps" was moved to proper

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alignment.

8. In Section 250.2440(a)(3), "Spaces" was stricken and "Space" was added.

9. In Section 250.2440(d)(4), "disease(s)" was stricken and "disease" was added.

10. In Section 250.2440(d)(4), "room" was changed to "Rooms".

11. In Section 250.2440(d)(5), "Room" was changed to "Rooms".

12. In Section 250.2440(h)(5), "Nurseries" was stricken and "nurseries" was added.

13. In Section 250.2440(h)(5), "Nursery" was stricken and "nursery" was added.

14. In Section 250.2440(h)(6)(A), the period was stricken.

15. In Section 250.2440(h)(7), "Nursery Unit" was stricken and "nursery unit" was added.

16. In Section 250.2440(i)(5), "area" was deleted after "ll".

17. In Section 250.2440(i)(6)(F), "shall be provided" was added after "room".

18. In Section 250.2440(i)(6)(H), "workroom" was changed to "work room"; Work-room was changed to "Workroom".

19. In Section 250.2440(j), "workload" was stricken and "work load" was added.

20. In Section 250.2440(j)(4)(H), "Obsterical Suite" was stricken and "obstetrical suite" was added.

21. In Section 250.2440(j)(4)(l), "prohibits" was stricken and "prohibit" was added.

22. In Section 250.2440(k), "Emergency Suite" was stricken and "emergency suite" was added.

23. In Section 250.2440(m)(1)(B)(viii), "Potwashing" was stricken and "Pot-Washing" was added.

24. In Section 250.2440(m)(2)(C), the comma after "but" was stricken.

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25. In Section 250.2460(d), the hyphens were stricken.

26. In Section 250.2460(h)(1), the comma after "area" was deleted.

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 250.2430, "registered" was stricken and "licensed" was added.

2. In Section 250.2440(d)(4), "Rooms" was stricken and "rooms" was added.

3. In Section 250.2440(i)(5) "inpatient" was changed to "outpatient".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Section 250.2420 (Submission of Plans for New Construction, Alterations or additions to Existing Facility) is being amended to revise requirements for the submission of final drawings to the Department. Drawings will be required to be submitted for review and approval prior to the beginning of construction.

Section 250.2430 (Preparation of Drawings and Specifications - Submission Requirements) is being amended to allow structural drawings to be executed by or under the immediate supervision of a Structural Engineer licensed in the State of Illinois and to allow mechanical and electrical drawings to be executed by or under the immediate supervision of a Professional Engineer licensed in the State of Illinois.

Section 250.2440 (General Hospital Standards) is being amended to add requirements for Stage II Recovery Rooms, including recovery station, nurses' station, drug distribution station, toilet space and clean and soiled utility rooms.

Section 250.2460 (Finishes) is being amended to delete outdated references to codes that are incorporated in Section 250.160. New requirements for ceiling finishes are specified.

16) Information and questions regarding these adopted amendments shall be

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directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
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250.120	Application for and Issuance of a License to Operate a Hospital
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250.530	Proficiency Survey Program (Repealed)
250.540	Laboratory Personnel (Repealed)
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	SUBPART F: RADIOLOGICAL SERVICES
Section	
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250.630	General Policies and Procedures Manual

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	SUBPART H: RESTORATIVE AND REHABILITATION SERVICES
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250.1710 Housekeeping
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250.1910 Maintenance
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250.2210 Applicability of other Parts of these Regulations
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Special Medical Record Requirements for Psychiatric Hospitals and
Psychiatric Units of General Hospitals or General Hospitals
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SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

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250.2620 Codes and Standards

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250.2710 Special Care and/or Special Service Units

250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section

250.2810 Applicability of Other Parts of These Requirements

250.2820 Establishment of an Alcoholism and Intoxication Treatment Service

250.2830 Classification and Definitions of Service and Programs

250.2840 General Requirements for all Hospital Alcoholism Program Classifications

250.2850 The Medical and Professional Staff

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ILLUSTRATION A Seismic Zone Map

APPENDIX A Codes and Standards (Repealed)

EXHIBIT A Codes (Repealed)

EXHIBIT B Standards (Repealed)

EXHIBIT C Addresses of Sources (Repealed)

TABLE A Measurements Essential for Level I, II, III Hospitals

TABLE B Sound Transmission Limitations in General Hospitals

TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)

TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)

TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air

TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas

TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act (210 ILCS 85).

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. ~~3241~~, effective April 1, 2001.

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section 250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility

a) New Construction, Addition, or Major Alteration

1) When construction is contemplated, either for new buildings or additions or material alterations to existing buildings coming within the scope of these standards, design development drawings and outline specifications shall be submitted to the Department

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for review. Approval of design development drawings and specifications shall be obtained from the Department prior to starting final working drawings and specifications. Comments or approval shall be provided within 30 thirty days after of receipt by the Department.

- 2) Final Drawings
- A) The final working drawings and specifications shall be submitted to the Department for review and approval prior to the beginning of construction. Alternative methods of design development and construction may be acceptable subject to the approval of the Department. Department approval is null and void if construction contracts are not executed and construction is not started within one year after the plan approval date. Comments by the Department shall be provided within 60 days after the day on which the submission is deemed complete. The final working drawings and specifications shall be submitted to the Department for review and approval prior to beginning of construction. For final approval to remain valid, contracts must be signed within one year of approval date. Alternative methods of design development and construction may be acceptable subject to the approval of the Department. Comments or approval shall be provided within 30 days of receipt by the Department.
- B) The Department shall be notified of the award of construction contracts.

- 3) Any contract modifications that which affect or change the function, design, or purpose of a facility shall be submitted to the Department for approval prior to authorizing the modifications. Comments or approval shall be provided within 30 days after of receipt by the Department.

- 4) The Department shall be notified when construction has been completed or whenever any area is occupied.

- 5) As-built drawings should be maintained by the hospital.
- b) Minor Alterations and Remodeling. Minor alterations or remodeling changes that which do not affect the structural integrity of the building, that which do not change functional operation, that which do not affect fire safety, and that which do not add beds or facilities over those for which the hospital is licensed, need not be submitted for approval.

- c) Alterations of Water Supply, Plumbing and Drainage. No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed, nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the Department and have been reviewed and approved.

- d) Codes and Standards

- 1) Nothing stated in this Part shall relieve the sponsor from

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compliance with building codes, ordinances, and regulations that which are enforced by city or county jurisdictions.

- 2) The recommendations of the BOCA National Building Code 1993 shall apply insofar as such recommendations are not in conflict with the standards set forth in this Part or with the National Fire Protection Association (NFPA) Standard No. 101 1994, "Life Safety Code."

- A) The portions of the BOCA National Building Code requiring automatic extinguishing systems in all hospitals, smoke detectors in all patient rooms, and automatic door closers on all patient room doors are hereby specifically excluded from these requirements.

- B) The BOCA National Building Code is intended as a model code for municipalities with no Building Code of their own.

- C) NFPA Standard No. 101-M~~1992~~, "Alternative Approaches to Life Safety," shall apply only if the Department determines that the proposed equivalent system is safe and does not constitute a hazard to the life and safety of the staff and patients.

- 3) The codes and standards referenced in this Part can be ordered from the various agencies at the addresses listed in Section 250.160 and are effective on the dates cited in that Section.

(Source: Amended at 25 Ill. Reg. Feb 16 1994)

Section 250.2430 Preparation of Drawings and Specifications--Submission Requirements

Drawings The preparation of drawings and specifications shall be executed by or be under the immediate supervision of an architect licensed registered in the State of Illinois. Structural drawings and specifications for these systems may be executed by or be under the immediate supervision of a Structural Engineer licensed in the State of Illinois. Mechanical and electrical drawings and specifications for these systems may be executed by or be under the immediate supervision of a Professional Engineer licensed in the State of Illinois. The requirements contained herein have been established for the guidance of the hospital and the architect to provide a standard method of preparation of drawings and specifications.

- a) First Stage Submission stage-submission--Design Development Drawings and Outline Specifications.

- 1) Development of the preliminary sketch plans indicating in detail the assignment of all spaces and size of areas and rooms, and indicating in outline the fixed and movable equipment and furniture.

- A) The plans shall be drawn at a scale sufficiently large to clearly present the proposed design.

- B) The drawings shall include:

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- i) A plan of each floor including the basement or ground floor;
 - ii) A roof plan;
 - iii) A plan showing roads, parking areas, sidewalks, etc.;
 - four elevations of all facades;
 - iv) Sections through the building;
 - v) All adjacent areas clearly labeled if addition or alteration; and
 - vi) Fire and smoke separation diagrams.
- 2) Outline specifications shall provide a general description of the construction including finishes; acoustical materials, their extent and type; the extent of the conductive floor covering; heating and ventilating systems; and the type of elevators.
- 3) The total gross floor area and bed count shall be shown on the drawings.
- 4) A brief narrative of the proposed program shall be provided.
- b) Second Stage Submission--Working Drawings and Specifications--
All working drawings shall be well prepared so that clean and distinct prints may be obtained, and shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for contract purposes. Separate drawings shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical. They shall include or contain the following:
- 1) Architectural Drawings--
 - A) Site plan showing all new topography newly established levels and grades; existing structures on the site (if any); new buildings and structures; roadways; walks; and the extent of the areas to be landscaped. All structures and improvements that are to be removed under the construction contract shall be shown.
 - B) Plan of each floor and roof.
 - C) Elevations of each facade.
 - D) Sections through the building.
 - E) Elevators and dumbwaiters. Drawings delineating shaft details and dimensions, sizes of cab platforms and doors, travel distances including elevation height of landings, pit sizes, and machine rooms.
 - F) Kitchens, laundry, laboratories, special care areas, and similar areas shall be detailed at a scale to show the location, type, size and connection of all fixed and movable equipment.
 - G) Scale details as necessary; scale details to one and one-half inches to the foot may be necessary to properly indicate portions of the work.
 - H) Schedule of finishes.
 - 2) Structural Drawings--
 - A) Plans of foundations, floors, roofs and all intermediate

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- levels shall show a complete design with sizes, sections, and the relative location of the various members. Schedule of beams, girders and columns.
- B) Floor levels, column centers, and off-sets shall be dimensioned.
 - C) Special openings and pipe sleeves shall be dimensioned or otherwise noted for easy reference.
 - D) Details of all special connections, assemblies and expansion joints shall be given.
 - E) Notes on design data shall include the name of the governing building code, values of allowable unit stresses, assumed live loads, wind loads, earthquake load, and soil-bearing pressures.
 - F) For special structures, a stress sheet shall be incorporated in the drawings showing:
 - i) Outline of structure;
 - ii) All load assumptions used;
 - iii) Stresses and bending moments separately for each kind of loading;
 - iv) Maximum stress and/or bending moment for which each member is designed, when not readily apparent from the mechanical drawings; and
 - v) Horizontal and vertical reactions at column bases.
- 3) Mechanical Drawings. These drawings with specifications shall show the complete heating, cooling and ventilation systems; plumbing, drainage, stand pipe, and sprinkler systems.
- A) Heating, Cooling and Ventilation--
 - i) Radiators, coils and steam-heated equipment such as sterilizers, warmers and steam tables;
 - ii) Heating and steam mains and branches with pipe sizes;
 - iii) Diagram of heating and steam risers with pipe sizes;
 - iv) Sizes, types and heating surfaces of boilers, furnaces with stokers and oil burners, if any;
 - v) Pumps, tanks, boiler breeching and piping and boiler room accessories;
 - vi) Air conditioning systems with required equipment, water and refrigerant piping, and ducts;
 - vii) Supply and exhaust ventilating systems with connections and piping; and
 - viii) Air quantities for all room supply and exhaust ventilating duct openings.
 - B) Plumbing, Drainage and Stand Pipe Systems--
 - i) Size and elevation of: street sewer, house sewer, house drains, street water main and water service into the building;
 - ii) Location and size of soil, waste, and vent stacks with connections to house drains, cleanouts, fixtures and equipment;

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- iii) Size and location of hot, cold and circulating mains, branches, and risers from the service entrance, and tanks;
- iv) Riser diagram of all plumbing stacks with vents, water risers and fixture connections;
- v) Gas, oxygen and similar piped systems;
- vi) Standpipe and sprinkler systems; and
- vii) All fixtures and equipment that require water and drain connections.

4) Electrical Drawings. Drawings shall show all electrical wiring, outlets, and equipment that which require electrical connections.

A) Electrical service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building.

B) Location of main switchboard, power panels, light panels and equipment. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches.

C) Light outlets, receptacles, switches, power outlets, and circuits.

D) Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets and branch conduits as approved by the telephone company. Where public telephones are used for inter-communication, a provide separate room and conduits for racks and automatic switching equipment shall be provided as required by the telephone company.

E) Nurses' call systems with outlets for beds, duty stations, corridor signal lights, annunciators and wiring diagrams.

F) Doctors' call and doctors' in-and-out systems with all equipment wiring, if provided.

G) Fire alarm system with stations, signal devices, control board and wiring diagrams.

H) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits.

I) All other electrically operated systems and equipment.

5) Additions to Existing Structures-

A) Procedures and requirements for working drawings and specifications are to be followed (see Section 250.2420); and in addition, the following information shall be submitted:-

- i) Type of activities within the existing building and distribution of existing beds, etc.;
- ii) Type of construction of existing building and number of stories in height;
- iii) Plans and details showing attachment of new construction to the existing structure;
- iv) Mechanical and Electrical systems tying into the

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existing system.

B) The Department may require submission of architectural drawings of all or any part of the existing structure.

6) Specifications. Specifications shall supplement the drawings and shall comply with the following:

A) The specifications shall fully describe, except where fully indicated and described on the drawings, the materials, workmanship, the kind, sizes, capacities, finishes, and other characteristics of all materials, products, articles and devices.

B) The specifications shall include:

- i) Cover or tile sheet;
- ii) Index;
- iii) Invitation for bids;
- iv) General conditions;
- v) General requirements;
- vi) Sections describing material and workmanship in detail for each class of work; and
- vii) Bid form.

(Source: Amended at 25 Ill. Reg. 3041.1, effective FEB 16/00)

Section 250.2440 General Hospital Standards

Minimum Requirements in the General Hospital are:

- a) Administration and Public Areas
 - 1) Main Entrance: Designed to accommodate persons with physical disabilities the-physically-handicapped.
 - 2) Lobby: A it-shall-include-a reception and information counter or desk, waiting space spaces, public toilet facilities, public telephones, and drinking fountain fountains.
 - 3) Interview Space Spaces: Space Spaces for private interviews relating to social service, credit or admissions.
 - 4) General or Individual Office Offices: Office Offices for business transactions, medical and financial records and administrative and professional staffs.
 - 5) Multipurpose Room Room: For conferences, meetings and education purposes including provision for the use of visual aids.
 - 6) Medical Library Facilities.
 - 7) Storage Areas.
- b) Medical Records Unit. Adequate Provide-adequate space for reviewing, dictating, sorting, recording, and storage of medical records shall be provided.
- c) Adjunct Diagnostic and Treatment
 - 1) Laboratory Suite. Laboratory facilities shall should be provided to meet the work load workload described in the Program Narrative

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narrative--program. These may be provided within the hospital Hospital or through an effective contract arrangement with a nearby laboratory service. If laboratory services are provided by contractual arrangement, then at least the following minimum services shall be available within the hospital Hospital. (For additional requirements, see Subpart E of this Part.)

- A) Laboratory work counter counter(s) with appropriate services;
- B) Laboratory lavatory(ies) or counter sink sink(s) equipped for handwashing;
- C) Storage cabinet cabinet(s) or closet closet(s);
- D) Blood storage facilities; and
- E) Specimen and sample collection facilities. Urine collection rooms equipped with a water closet and lavatory. Blood collection facilities with space for a chair and work counter.

2) Morgue and Autopsy Suite-

- A) These facilities shall be accessible to an outside entrance and shall be located to avoid movement of bodies through public areas.

- B) The following shall be provided when autopsies are performed within the hospital Hospital:

- i) Refrigerated facilities for body holding; and
- ii) Autopsy Room. This room shall contain a work counter with sink equipped for handwashing; storage space for supplies, equipment and specimens; and an autopsy table.

- C) If no autopsies are performed in the hospital Hospital, a well-ventilated body-holding room shall be provided.

3) Radiology Suite-

- A) Facilities shall be provided for radiology purposes as required by the Program Narrative Narrative-program. (For additional requirements see Subpart F of this Part.)

- B) The suite shall contain the following elements:

- i) Radiographic room room(s);
- ii) Film processing facilities.
- iii) Viewing and administration area area(s).
- iv) Film storage facilities.
- v) Toilet room with handwashing facilities, directly accessible from each fluoroscopy room without entering the general corridor area.
- vi) Dressing area area(s) with access to toilets, and facilities for patient's belongings.
- vii) Waiting room or alcove.
- viii) Radiation protection requirements for X-ray and gamma ray installations shall conform with National Council on Radiation Protection (NCRP), Report No. 49: Structural Shielding Design and Evaluation for Medical

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Use of X-rays and Gamma Rays of Energies up to 10 Mev (~~†1976†~~) and Report No. 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 Mev (Equipment Design, Performance and Use) (~~†1989†~~). Provisions shall be made for testing the completed installation and correcting defects before use.

- ix) X-ray installations for fixed and mobile x-ray equipment: Shall conform to article 660, X-ray Equipment of NFPA Standard 70 (The National Electrical Code).

- 4) Pharmacy Suite. The size and type of services to be provided in the pharmacy will depend upon the type of drug distribution system to be used in the hospital Hospital and whether the hospital Hospital proposes to provide, purchase, or share pharmacy services with other hospitals Hospitals or other medical facilities. This shall be explained in the Program Narrative program. (For additional requirements see Subpart R of this Part.) Provisions shall be made for the following:

- A) Administrative functions functions. These include requisitioning, recording and reporting, receiving, storage (including refrigeration), and accounting.

- B) Quality control area area(s) (if if bulk compounding and/or packaging functions are performed).
- C) Locked storage Storage for drugs Drugs and biologics Biologics.

- D) Dispensing area area.

- E) Handwashing facilities facilities. If required by the program, provisions shall be made for the following:

- i) A drug information Drug-information area for reference materials and personnel.

- ii) A sterile products area Sterile-products--area for compounding of I.V. admixtures and other sterile dosage forms. A separate sink for handwashing shall be provided in this area.

- 5) Physical Therapy Suite:

- A) Appropriate services may be planned and arranged for shared use by occupational therapy patients and staff.

- B) If a physical therapy suite is required by the Program Narrative program, the following shall be provided:

- i) Office space Space(s).
- ii) Waiting space Space(s).
- iii) Treatment area area(s) for such modalities as thermotherapy, diathermy, ultrasonics, and hydrotherapy. Cubicle provide-cubicle curtains shall be provided around each individual treatment area. Handwashing facilities shall be provided Provide Handwashing--facility(ies). One lavatory or sink may serve more than one cubicle.

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- iv) Facilities for collection of wet and soiled linen and other material shall be provided.
- v) Exercise area Area.
- vi) Storage for clean linen, supplies, and equipment.
- vii) Patients' dressing areas and toilet rooms Breasting Areas-and-Toilet-Rooms.
- viii) Wheelchair and stretcher storage.
- ix) Showers, lockers and service sinks shall be provided as required by the Program Narrative program.

6) Occupational Therapy Suite

- A) Appropriate elements may be planned and arranged for shared use by physical therapy patients and staff.
- B) If an occupational therapy suite is required by the Program Narrative Program, the following elements shall be provided:
 - i) Office Space spaces;
 - ii) Activities area areas equipped with a sink or lavatory;
 - iii) Storage for supplies and equipment; and-
 - iv) Patients' toilet rooms.

d) Nursing Unit. The requirements in this subsection (d) do not apply to special care areas such as recovery rooms, intensive care areas and newborn care areas.

- 1) Patient Rooms-
 - A) Each patient room shall be an outside room. Windows shall be provided for each patient room and shall be of a size ~~which--is~~ not less than 7.5% of the square footage of the floor of the room.
 - B) Minimum room areas shall be: 100 square feet clear in one-bed rooms and 80 square feet clear per bed in multi-bed rooms (no rooms shall have more than four beds). Clear is defined as the usable dimensions of the room, excluding the vestibule, toilet areas, and closets.
 - C) A minimum of 3'-0" clear at the foot and sides of each bed shall be provided.
 - D) Each patient room shall have access to a toilet room without entering the corridor.
 - E) One toilet room shall serve not more than four beds and not more than two patient rooms.
 - F) The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room that which serves not more than two single bedrooms if each such single bedroom contains a lavatory.
 - G) Each patient shall have a wardrobe, locker, or closet that is suitable for hanging and storing personal effects.
 - H) Visual privacy shall be provided each patient bed in multi-bed rooms.
- 2) Nurses Service Center. The requirements in this subsection (d)(2) shall be provided either as part of a centralized cluster serving

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more than one nursing unit or shall be used as supportive areas within a self-contained nursing unit.

- A) A nurses' station with a work counter, storage areas, and communications equipment shall be provided.
- B) A nurses' office shall be provided.
- C) Handwashing facilities convenient to both the nurses' station and the drug distribution station shall be provided.
- D) Charting facilities shall be provided for nurses and doctors, including a work counter and charting racks.
- E) A lounge and toilet rooms ~~roomst~~ for staff shall be provided.
- F) Closets or compartments for the safekeeping of coats and personal effects of nursing personnel.
- G) A multipurpose room shall be provided for conferences, demonstrations, and consultation. This room may be located outside the nursing unit, but within the hospital.
- H) Accessibility to a room for the examination and treatment of patients shall be provided. This room may be omitted if all patient rooms are single bedrooms. This room shall have a minimum floor area of 100 square feet excluding spaces for vestibules ~~vestibulest~~, toilet rooms (if provided), and work counters ~~countertst~~. The room shall contain a lavatory, a work counter, storage facilities, and a writing space.
- I) At least one tub or shower shall be provided for each 12 beds that which do not have bathing facilities within the patients' rooms. Each tub or shower shall be in an individual room or enclosure that which provides space for the private use of the bathing fixture and for drying and dressing.
- J) A Nourishment nourishment station Station with a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, storage cabinets, and units to provide ice for patient's service and treatment shall be provided.
- K) A drug distribution station Drug-Distribution-Station shall be provided for convenient and prompt 24-hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If a medicine preparation room or unit is used, it shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located in an alcove under direct control of the nursing or pharmacy staff.
- 3) Service Area-
 - A) A clean work room Clean-Workroom or a clean holding room

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Clean-Holding-Room shall be provided in each nursing unit. The clean work room ~~clean-Workroom~~ shall contain a work counter, handwashing facilities ~~facilities~~, nurse signal, and storage facilities. The clean holding room ~~clean Holding-Room~~ shall be part of a system for storage and distribution of clean and sterile supplies and materials.

B) A clean-B linen-Storage, ~~Provide-a~~ separate designated area within the clean work room shall be provided for clean linen storage ~~clean-Workroom~~. If a cart system is used, the storage of the cart may be in an adjacent alcove.

C) Parking shall be provided Provide-parking for stretchers and wheelchairs out of the path of normal traffic.

D) A soiled work room ~~Soiled-Workroom~~ or soiled holding room ~~Soiled-Holding-Room~~ shall be provided. The soiled work room ~~Soiled-Workroom~~ shall contain a clinical sink or equivalent flushing rim fixture, a nurse signal, a handwashing sink, a waste receptacle, and a linen receptacle. The soiled holding room ~~Soiled-Holding-Room~~ shall be part of a system for the collection and disposal of soiled materials. If bed pan flushing attachments are used on every patient room toilet, a clinical sink is not required in the soiled work room ~~Soiled-Workroom~~, but should be considered.

E) Room Provide-room for the storage of equipment such as I.V. stands, inhalators, mattresses, and walkers shall be provided.

F) Space shall be provided for the storage of required emergency equipment such as a crash cart. This equipment shall be under the direct control of the nursing staff.

G) Sitz baths shall be provided when required by the program.

4) Isolation Room ~~Room(s)~~. There shall be a room or rooms as required by the Program Narrative for the isolation of patients with known or suspected communicable diseases ~~diseases~~. Each such room shall have an individual toilet equipped with a bedpan flushing attachment and a lavatory. Isolation rooms ~~Rooms~~ shall be provided with an anteroom equipped with a handwashing sink, trimmed with valves that which can be operated without the use of hands, storage spaces for clean and soiled materials, and a space for gowning. There shall be only one patient per room. All isolation rooms ~~isolation-Rooms~~ shall be otherwise planned as required for a standard patient room.

5) Rooms ~~Room(s)~~ for Disturbed Patients. Every hospital that which does not have a psychiatric nursing unit shall provide facilities for the care of disturbed patients, usually for less than 24 ~~twenty-four~~ hours duration. The design shall provide for close observation, and shall minimize the dangers of patient escape, suicide, or injury. This may be provided in a special care room used for multiple purposes. This room shall be located either in the Emergency Unit or in a private room in a Medical Nursing

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Unit, or as otherwise provided by the Program Narrative.

e) Intensive Care Units

1) A means ~~Facilities for the intensive care of medical-surgical or cardiac patients have critical space and staffing requirements. Since many of these patients are often acutely aware of the surrounding environment, they may be affected by it. Means of controlling unnecessary noise shall be provided is important. A means of providing temporary privacy for each patient shall be provided. At times each patient may require individual privacy, although each is required to be under constant staff observation. Windows shall be provided so that each patient may observe be cognizant of the outdoor environment. Beds may be arranged so that one window may serve more than one patient.~~

2) Intensive Care Units shall provide the following:

A) Patient Rooms. Cardiac intensive care, medical intensive care, and surgical intensive care patients may be housed in either single bedrooms or multi-bed rooms; however, at least one single bedroom shall be provided. All beds shall be arranged to permit visual observation by nursing staff. Patient rooms shall meet the following requirements:

i) Clearance between beds shall be not less than 6'-0". Single bedrooms shall have a minimum area of 120 square feet and a minimum dimension of 10'-0".

ii) Viewing panels shall be provided for nursing staff observation of patients. Curtains or other means shall be provided to cover the viewing panels when the patient requires visual privacy. Glazing in viewing panels shall be safety glass, wire glass, or clear plastic to reduce the hazard from accidental breakage, except that wire glass is required in glazed openings to corridors or passageways used as means of egress for fire safety purposes.

iii) An I.V. solution support shall be provided for each patient so that the solution is not suspended directly over the patient.

iv) A lavatory equipped for handwashing shall be provided in each private patient room. In multi-bed rooms, no fewer provide-not-less than one lavatory for each six beds shall be provided.

v) A nurses' call system shall be provided. See Section 250.2500(g).

vi) Each cardiac intensive care patient shall be provided with a toilet facility that which is directly accessible from the bed area. The water closet shall have sufficient clearance around it to facilitate its use by patients needing assistance. Portable water closet units are permitted within patient rooms. If

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portable units are used, facilities for servicing and storing them shall be conveniently located to the cardiac care unit.

- B) Service Areas. The following service areas shall be located in or readily available to each Intensive Care Unit. One area may serve two or more adjacent Intensive Care Units. The size and location of each service area will depend upon the number of beds to be served.

- i) A nurses' station ~~Nurses' Station~~---it shall be located to permit monitoring or visual observation of each patient served.
- ii) Handwashing facilities ~~Facilities~~---these shall be convenient to the nurses' station and drug distribution station.
- iii) Charting facilities ~~Facilities~~ shall be furnished with work counters ~~counters~~ and charting racks.
- iv) A staff toilet room ~~Staff's Toilet Room~~---this room shall contain a water closet and a lavatory equipped for handwashing.
- v) Closets or compartments for the safekeeping of coats and personal effects of nursing personnel shall be provided---these shall be located at or near the nurses' station.
- vi) A clean work room ~~Clean Workroom~~ (or a system for storage and distribution of clean and sterile supply materials)---the ~~Clean Workroom~~ shall contain a work counter, handwashing facility, and storage facilities.
- vii) Soiled work room ~~Workroom~~ or soiled holding room ~~Soiled Holding Room~~---the ~~Soiled Workroom~~ shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle. A soiled holding room ~~Soiled Holding Room~~ shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled work room ~~Soiled Workroom~~ except that the clinical sink and work counter may be omitted.
- viii) Facilities for washing or flushing bedpans shall be provided within the unit.
- ix) A drug distribution station shall be provided ~~Drug Distribution Station~~---provision shall be made for convenient and prompt 24-hour distribution of medicine to patients either---this may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If used, a medicine preparation room or unit shall be under the nursing staff's visual control and contain a work counter, a sink, refrigerator, and locked storage

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for biologicals and drugs. A medicine dispensing unit may be located at the nurses' station ~~Nurses' Station~~, in the clean work room ~~Clean Workroom~~, or in an alcove or other space under direct control of the nursing or pharmacy staff.

- x) Clean Linen Storage. A storage closet or a designated area within the clean work room ~~Clean Workroom~~ shall be provided. If a closed cart system is used, storage may be in an alcove.
- xi) A nourishment station ~~Nourishment Station~~---this shall contain a sink equipped for handwashing; equipment for serving nourishment between scheduled meals; refrigerator, storage cabinets, and units to provide ice for patient's service and treatment.
- xii) Emergency Equipment Storage. Space shall be provided for a "crash cart" and similar emergency equipment.
- xiii) Equipment Storage Room. Space for necessary equipment shall be provided.
- xiv) Patients' storage facilities ~~Storage Facilities~~ shall be provided---provisions shall be made for the storage of patients' personal effects. These may be located outside the intensive care unit.
- C) Waiting Room- A waiting room shall be provided for family members and others who may be permitted to visit the intensive care patients. A toilet room, public telephone, and seating accommodations for long waiting periods shall be provided.
- f) Pediatric Nursing Unit. Young children and adolescents shall be housed in a nursing unit separate from adults unless special allowance has been made in the Program Narrative ~~narrative program~~. This unit shall meet the following requirements:
 - 1) General Unit Requirements Including Patient Rooms. The requirements noted in subsection ~~Section 250.244(d)~~ of this Section shall be applied to a Pediatric and Adolescent Nursing Unit containing hospital beds, youth beds, or cribs.
 - 2) Nursery serving pediatric patients shall contain no more than eight bassinets. The minimum clear floor area per bassinet shall be 40 square feet. Each room shall contain a lavatory equipped for handwashing, nurses' emergency calling system as provided in Section 250.2500(g) and glazed viewing windows for observing infants from public areas and work room ~~workroom~~.
 - 3) Nursery work rooms ~~Workrooms~~ as specified in the ~~Narrative Program Narrative~~. Each nursery shall be served by a connecting work room ~~workroom~~. One work room ~~workroom~~ may serve more than one nursery. It shall contain gowning facilities for staff and housekeeping personnel.
 - 4) The examination ~~Examination~~ and treatment room ~~Treatment Room~~

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it shall contain a work counter, storage facilities, and lavatory equipped for handwashing.

5) Service--Areas- The service areas Service--Areas in the Pediatric and Adolescent Nursing Unit shall conform to the conditions listed in subsection Section--250-2440(d)(3) of this Section and shall meet the following additional conditions:

- A) Multipurpose or individual areas area(s) shall be provided for dining, educational, and play or other patient care purposes.
- B) Space for preparation or storage of infant formula shall be provided in the unit or in a convenient location nearby.
- C) Patients' toilet rooms room(s) shall be provided convenient to multipurpose areas area(s) and central bathing facilities.
- D) Storage closets or cabinets for toys and for educational and recreational equipment shall be provided.
- E) Storage space shall be provided for replacement of youth and adult beds to provide flexibility for interchange of patient accommodations.

6) Fixtures and Accessories-

- A) Attention shall be given to other details affecting small children as required by the program.
- B) Switches and plugs for critical equipment shall be designed to preclude shock and/or located for inaccessibility by small children.
- C) Toilets and washbasins shall be suitable for use by small children as described in the program narrative.

g) Psychiatric Nursing Unit-

- 1) Units intended for psychiatric or other types of disturbed patient nursing care shall provide a safe and secure facility for patients needing close supervision to minimize ~~their~~ hiding, escape, injury, or suicide. The unit shall be designed to facilitate care of ambulatory inpatients, to permit flexibility in arranging various types of therapy, and to present as noninstitutional an atmosphere as possible.

2) Each Nursing Unit shall provide the following:

- A) Patient Rooms and Nurses' Nurses Service Center. The requirements noted in subsection (d) of this Section Section 250-2440(d) shall be applied to patient rooms and nurses service center in Psychiatric Nursing Units except as follows:

- i) A nurses' calling system is not required. Other types of communications systems system may be utilized.
- ii) Provision for visual privacy is not required.

- B) Service--Areas- The service areas Service--Areas noted in subsection Section--250-2440(d)(3) of this Section shall be provided or made available to each Psychiatric Nursing Unit except that space for stretchers and wheelchairs is not

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required and clinical sinks or equivalent may be installed but are not required. The following elements shall be provided within and for the exclusive use of the unit:

- i) Consultation room Room(s).
- ii) Space for dining, recreation, and occupational therapy Bining--Recreation--and--Occupational--Therapy. The total area for these purposes shall not be less than 40 square feet per patient.
- iii) Storage closets or cabinets for recreational and occupational therapy equipment.
- iv) Storage for patients' clothing.
- C) Additional Services. Appropriate additional services shall be provided as determined by the Program Narrative Program.
- h) Newborn Care Unit. Newborn infants shall be housed in nurseries that which are conveniently located to the postpartum nursing unit and obstetrical facilities. The nurseries shall be located and arranged to preclude unrelated traffic. No nursery shall open directly into another nursery. The requirements of Subpart O of this Part shall apply. The units shall meet the following requirements:

1) General. Each nursery shall contain:

- A) Lavatory Lavatory(s) trimmed with valves that which are aseptically operated (i.e., knee or foot controls) at the rate of one for each eight bassinets.

- B) A nurses' emergency calling system.

- C) Bassinets shall--be--provided in a number at least equal to the number of postpartum beds.

- D) Glazed Provide--glazed observation windows to permit viewing infants from public areas and from work rooms.

- 2) Full-Term Nursery. It shall contain no more than 12 bassinets; however, this number may be increased to 16 if the extra bassinets are of the isolation type. The minimum floor area shall be 30 square feet for each regular bassinet and 40 square feet for each isolation type bassinet. When a "rooming-in" program is used, the total number of bassinets provided in these units may be appropriately reduced, but the full-term nursery may not be omitted.

3) Special Care and Observation Nursery-

- A) A nursery Nursery to provide special care for infants in distress is required in a hospital having 25 or more maternity beds, unless equivalent facilities for such infants are conveniently available elsewhere. The floor area per bassinet shall be as determined by the program but be not less than 40 square feet. Additional area shall be provided to accommodate work room workroom functions if these are located within the nursery area.

- B) Where a separate special care nursery Special--Care--Nursery is provided, it shall have its own work room workroom areas.

- 4) Work Room Workroom. Each nursery Nursery shall be served by a

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connecting work room workroom. It shall contain gowning facilities at the entrance for staff and housekeeping personnel, work space with counter, refrigerator, lavatory or sink equipped for handwashing, and storage. One work room workroom may serve more than one nursery. The work room workroom that which serves the special care nursery Special-Care-Nursery may be omitted if the equivalent work area and facilities are provided within the nursery. Nursery in which case the gowning facilities shall be located near the entrance to the nursery Nursery and shall be separated from the work area.

- 5) Examination and Treatment Room or Space for Infants. It shall contain a work counter, storage, and lavatory equipped for handwashing trimmed with valves that which are aseptically operated (i.e., knee or foot controls) and shall be located so that doctors need not enter nurseries Nurseries. It may serve more than one nursery Nursery and may be located in the work room. If the examination and treatment of infants will take place in the individual bassinets, space for physicians' and nurses' gowning shall be provided as well as a conveniently accessible handwashing sink trimmed with valves that which are aseptically operated (i.e., knee or foot controls).

- 6) Infant Formula Facilities. Where the Program Narrative Program requires it, the hospital shall provide the following:

- A) On-site Formula Preparation:
 - i) Clean-up facilities for washing and sterilizing supplies. These shall consist of a lavatory or sink equipped for handwashing, a bottle washer, work counter space, and an equipment sterilizer.
 - ii) A separate room for preparing infant formula. It shall contain a lavatory or sink equipped for handwashing, refrigerator, work counter, formula sterilizer, and storage facilities. It may be located near the nurseries Nurseries or at another appropriate place within the hospital. No direct access from the formula room to a nursery Nursery or to a nursery work room Nursery-Workroom will be permitted.

- B) Commercially Prepared Formula. If a commercial infant formula is used, the storage and handling may be done in the nursery work room Nursery-Workroom or in another appropriate room that which has a work counter, a sink equipped for handwashing, and storage facilities.

- 7) Janitors' Closets. A closet for exclusive use of the housekeeping staff in maintaining the nursery unit Nursery-Unit shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

- 8) Gowning and scrub areas Scrub--Areas shall be equipped with lockers for doctors' and nurses' belongings, cabinets for clean gowning, receptacles for used gowns, and handwashing sinks

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- 9) Clean utility Utility area Areas with work counter counter(s) and handwashing sink sink(s) shall be provided.

- 10) Soiled utility Utility area Areas with work counter counter(s), handwashing sink sink(s), clinical service sink sink(s) or equivalent flushing rim fixture fixture(s), and space for storage hamper hamper(s) (one for diapers and one for soiled linen provided at a ratio of one for each four bassinets or fraction thereof) shall be provided.

- 11) Storage space space(s) for replacement bassinets, phototherapy units, and other large items shall be provided. These storage areas areas may be located either within the unit or in the central supplies storage.

Surgical Suite. The number of operating rooms and recovery beds and the sizes of the service areas shall be based on the expected surgical work load workload. The surgical suite Surgical--Suite shall be located and arranged to preclude unrelated traffic through the suite. The requirements of Section 250.1820(h) of this Part shall be used for the surgical suite Surgical--Suite wherever applicable. The suite Suite shall provide the following elements:

- 1) General Operating Rooms Room(s). Each room shall have a minimum clear area of 360 square feet exclusive of fixed cabinets and shelves. The minimum dimension shall be 18'-0". A provide--a communications system shall be provided connecting with the surgical suite control station Surgical--Suite--Control--Station. At provide--at least two x-ray X-ray film illuminators shall be provided in each room.

- 2) Rooms Room(s) for Surgical Cystoscopic and Other Endoscopic Procedures. These rooms shall have a minimum clear area of 250 square feet exclusive of fixed cabinets and shelves. Additional clear space may be required by the Program Narrative Program to accommodate special functions in one or more of these rooms. A communications system connecting with the surgical suite control station Surgical--Suite--Control--Station shall be provided. Facilities for the disposal of liquid wastes shall be provided.

- 3) Fracture Rooms. Fracture rooms Rooms should be provided with an adjacent splint room. The fracture room may be located in the Emergency Department, the surgical suite Surgical--Suite, or as indicated in the Program Narrative Program.

- 4) Recovery Room. The recovery room Recovery-Room may be part of an approved combined surgical/obstetrical program as provided in Section 250.1820(h) of this Part.

- A) The postoperative recovery room shall be located locate--the Postoperative--Recovery--Room within or adjacent to the surgical suite Surgical--Suite. A provide separate entrance and exit doors remote from each other shall be provided to facilitate a one-way traffic flow within the recovery room Recovery-Room.

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- B) A ~~there shall be a~~ minimum of one recovery room bed shall be provided for each operating room.
- C) A ~~there shall be a~~ minimum of 70 square feet per bed shall be provided in open units. This area shall exclude the nursing station, work space, and storage area. In addition, a minimum of 4'-0" must be maintained between the sides of the beds, at least 3'-0" between the side of any bed and any wall or other fixed device, and at least 6 feet between the foot end of any bed and any other equipment or fixed device.
- D) The Recovery Room shall have adequate lighting of the type to allow accurate observation of the patients.
- E) A lavatory trimmed with valves operated without the use of hands, and a clinical sink shall be provided.
- F) A soiled holding area shall be provided.
- G) A ~~there shall be a~~ nursing station shall be provided within the postoperative recovery room ~~Postoperative-Recovery-Room~~. Facilities for medical storage and preparation shall be provided.
- H) Adequate storage and work space within or adjacent to the recovery room ~~Recovery--Room--~~ shall be available for necessary supplies and equipment.
- I) Each bed site shall be adequately equipped with oxygen, suction and at least two duplex electrical outlets.
- 5) Stage II Recovery Room. If outpatient surgery services are provided in the surgical suite, a Stage II recovery room shall be provided for outpatient observation prior to discharge and shall contain the following elements:
- A) The Stage II recovery area may be combined with an outpatient receiving and preparation area, and may be located at a site remote from the recovery room.
- B) A minimum of four recovery stations per operating room.
- C) The recovery stations are to be furnished with lounge chairs and are to have a minimum clear area of 50 square feet with a minimum clearance around three sides of the chairs of 4'-0".
- D) A nurses' station with a work counter and space for communications equipment and charting.
- E) A drug distribution station with a work counter, locked storage for narcotics, refrigerator, and handwashing sink.
- F) A toilet space for the exclusive use of the Stage II recovery area. The toilet shall be equipped with a gray diverter valve; and
- G) Clean and soiled utility rooms.
- 65) Service Areas. Individual rooms shall be provided when so noted; otherwise alcoves or other open spaces ~~that~~ which will not interfere with traffic may be used. Services may be shared with, and organized as part of, the obstetrical facilities, if the approved Program Narrative Program reflects this sharing concept.

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There shall be no cross-circulation between the surgical ~~Surgical~~ and delivery suites ~~Delivery-Suites~~ when using shared service areas. The following services shall be provided:

- A) Control station located to permit visual surveillance of all traffic that ~~which~~ enters the operating suite.
- B) Supervisor's office or station.
- C) Sterilizing facilities ~~facilities~~ with high speed autoclaves conveniently located to serve all operating rooms. When the Program Narrative Program indicates that adequate provisions have been made for replacement of sterile instruments during surgery, sterilizing facilities in the surgical suite ~~Surgical-Suite~~ will not be required.
- D) Drug Distribution Station. An area shall be provided ~~Provision shall be made~~ for preparation of medication to be administered to patients.
- E) Two scrub stations shall be conveniently located near each operating room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. A ~~Provide~~ scrub sink shall be provided, which may be aseptically operated without the use of hands. (Wrist blades are not acceptable.)
- F) A soiled work room shall be provided ~~Soiled-Workroom~~ for the exclusive use of the surgical suite staff (or a soiled holding room that is part of a system for the collection and disposal of soiled materials). The soiled work room ~~Soiled Workroom~~ shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle, and linen receptacle. A soiled holding room ~~Soiled-Holding-Room~~ shall be similar to the soiled work room ~~Soiled-Workroom~~ except that the clinical sink and work counter may be omitted.
- G) Fluid waste disposal facilities. These shall be conveniently located with respect to the general operating rooms. A clinical sink or equivalent equipment in a soiled work room ~~Soiled-Workroom~~ or in a soiled holding room ~~Soiled Holding-Room~~ would meet this requirement.
- H) Clean work room ~~Workroom~~ or a clean supply room ~~Clean-Supply Room~~. A clean work room ~~Clean-Workroom~~ is required when clean materials are assembled within the surgical suite ~~Surgical-Suite~~ prior to use. A clean work room ~~Clean Workroom~~ shall contain a work counter, sink equipped for handwashing, and space for clean and sterile supplies. A clean supply room ~~Clean-Supply-Room~~ shall be provided when the Program Narrative Program defines a system for the storage and distribution of clean and sterile supplies ~~that~~ which would not require the use of a clean work room ~~Clean Workroom~~.
- I) Anesthesia Storage Facilities. Unless the Narrative Program

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Narrative and the official hospital board action prohibits in writing the use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in The National Fire Protection Association Standards 56A (Inhalation Anesthetics) and 56F (Nonflammable Medical Gases).

- J) Anesthesia work room Workroom for cleaning, testing, and storing anesthesia equipment. It shall contain a work counter and sink.
- K) Medical Gas Storage. Space for reserve storage of nitrous oxide and oxygen cylinders shall be provided.
- L) Storage space for splints and traction equipment shall be provided for operating rooms equipped for orthopedic surgery.
- M) Equipment storage rooms Storage-Room(s) for equipment and supplies used in Surgical Suite.
- N) Staff Clothing Change Areas. Appropriate areas shall be provided for male and female personnel (orderlies, technicians, nurses, and doctors) working within the surgical suite Surgical-Suite. The areas shall contain lockers, showers, toilets, lavatories and space for donning scrub suits and boots. These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the surgical suite Surgical-Suite can change, shower, gown, and move directly into the surgical suite Surgical-Suite. Space for removal of scrub suits and boots shall be designed so that personnel using it will avoid physical contact with clean personnel.
- O) Outpatient Surgery Change Areas. If the program requires outpatient surgery, a separate area shall be provided where outpatients change from street clothing into hospital gowns and are prepared for surgery. This shall include a waiting room, lockers, toilets, and clothing change or gowning area with a traffic pattern similar to that of the staff clothing change area.
- P) Patients' Holding Area. In facilities with two or more operating rooms, a room or alcove shall be provided to accommodate stretcher patients waiting for surgery. This waiting area shall be under control of the surgical suite control station Surgical-Suite-Central-Station.
- Q) Stretcher Storage Area. This area shall be out of the direct line of traffic.
- R) Lounge and Toilet Facilities for Surgical Staff. These facilities shall be provided in hospitals having three or more operating rooms and shall be located to permit use without leaving the surgical suite Surgical-Suite. A nurses' toilet room Toilet-Room shall be provided near the recovery room Recovery-Room(s).

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- S) Janitors' Closet. A closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the surgical suite Surgical-Suite.

76) Central Sterilizing and Supply Room. The central sterile supplies Central-Sterile-Supplies shall be located either within the surgical suite Surgical-Suite or provided as a separate department within the hospital. The following shall be provided:

- A) A receiving and clean-up room containing work space, and equipment for cleaning medical and surgical equipment, and for disposal or processing of unclean material. Handwashing facilities operated without the use of hands shall be provided.
- B) A clean work room Clean-Workroom containing work space and equipment for sterilizing medical and surgical equipment and supplies.
- C) Storage areas for clean supplies and for sterile supplies (these may be in the clean work room Clean-Workroom).
- D) Unsterile Supplies Storage Room (this may be located in another department).
- E) Soiled or contaminated supplies supply and equipment must be separated from the clean or sterilized supplies supply and equipment.
- F) Cart Storage Areas.
- G) Facilities for cleaning and sanitizing carts may be centralized or departmentalized.
- J) Obstetrics Suite. The number of delivery rooms, labor rooms, recovery beds, and the sizes of the service areas shall depend upon the estimated obstetrical work load workload, and as indicated in the Program Narrative Program. The obstetrical suite Obstetrical-Suite shall be located and arranged to preclude unrelated traffic through the suite. The requirements of Subpart O of this Part shall apply.
 - 1) Delivery Rooms Room(s). Each Delivery Room shall have a minimum clear area of 300 square feet exclusive of fixed and movable cabinets and shelves. The minimum dimension shall be 16'-0" clear. The communications system shall be connected with the obstetrical suite control station Obstetrical-Suite-Central-Station. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.
 - 2) Labor Rooms Room(s). These rooms shall be single or two-bed rooms with a minimum clear area of 80 square feet per bed. Labor beds shall be provided at the rate of two for each delivery room Delivery-Room. In facilities having only one delivery room Delivery-Room, two labor rooms shall be provided, one of which shall be large enough to function as an emergency delivery room. Each labor room Labor-Room shall contain a lavatory equipped for handwashing. Labor Rooms shall be arranged so that they are

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accessible from a nurses' work station Nurses-Work-Station and shall also be accessible to facilities for medication, handwashing, charting, and storage for supplies and equipment.

- 3) Recovery Room. The recovery room Recovery-Room may be part of an approved combined surgical/obstetrical program as provided in Section 250.1820(h) of this Part.

A) The postpartum recovery room shall be located locate-the Postpartum-Recovery-Room within or adjacent to the obstetrics suite Obstetrics--Suite. A provide separate entrance and exit doors remote from each other shall be provided to facilitate a one-way traffic flow within the recovery room.

B) A There--shall-be-a minimum of 70 square feet per bed shall be provided. This area shall exclude the nursing station, work space, and storage area. In addition, a minimum 4'-0" must be maintained between the sides of the beds, at least 3'-0" between the side of any bed and any wall or other fixed device, and at least 6'-0" between the foot end of any bed and any other equipment or fixed device.

C) The recovery room Recovery-Room shall have adequate lighting of the type to allow accurate observation of the patients. D) A lavatory operable without the use of hands, and a clinical sink shall be provided.

E) A soiled holding area Soiled-Holding-Area shall be provided.

F) A There--shall-be-a nursing station shall be provided within the postoperative recovery room Postoperative-Recovery-Room. Facilities for medical storage and preparation shall be provided.

G) Adequate storage and work space within or adjacent to the Recovery Room shall be available for necessary supplies and equipment.

H) Each bed site shall be adequately equipped with oxygen, suction and at least two duplex electrical outlets.

- 4) Service Areas. Individual rooms shall be provided when so noted; otherwise alcoves or other open spaces that which will not interfere with traffic may be used. Services may be shared with and organized as part of the surgical facilities if the approved Program Narrative Program reflects this sharing concept. Service areas shall be arranged to avoid direct traffic between the operating and the delivery rooms. The following services shall be provided:

A) Control Station located to permit visual surveillance of all traffic that which enters the obstetrics suite.

B) Supervisor's Office or Station.

C) Sterilizing facilities facilities with high speed autoclaves autoclaves conveniently located to serve all delivery rooms Delivery-Rooms. When the Program Narrative Program indicates that adequate provisions have been made

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for replacement of sterile instruments during delivery, sterilizing facilities in the delivery suite Delivery-Suite will not be required.

- D) Drug Distribution Station. An area shall be provided provision-shall-be-made for preparation of medication to be administered to patients.

E) Two scrub stations shall be conveniently located near each delivery room Delivery-Room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. Scrub provide-scrub sinks that which may be aseptically operated without the use of hands shall be provided. (Wrist blades are not acceptable.)

F) Soiled work room Workroom for the exclusive use of the obstetrical suite Obstetrical-Suite staff (or a soiled room that is part of a system for the collection and disposal of soiled materials). The soiled work room Soiled-Workroom shall contain a clinical sink or equivalent flushing rim fixture, work counter, sink equipped for handwashing, waste receptacle, and linen receptacle. A soiled holding room Soiled-Holding-Room shall be similar to the soiled work room Soiled-Workroom except that the clinical sink and work counter may be omitted.

G) Fluid Waste Disposal Facilities. These shall be conveniently located with respect to the delivery rooms. A clinical sink or equivalent flushing rim equipment in a soiled work room Soiled-Workroom or in a soiled holding room Soiled-Holding-Room would meet this requirement.

H) Clean Work Room Workroom or a Clean Supply Room. A clean work room Clean-Workroom is required when clean materials are assembled within the obstetrical suite Obstetrical-Suite prior to use. A clean work room Clean-Workroom shall contain a work counter, sink equipped for handwashing, and space for clean and sterile supplies. A clean supply room Clean-Supply-Room shall be provided when the Program Narrative Program defines a system for the storage and distribution of clean and sterile supplies that which would not require the use of a clean work room Clean-Workroom.

I) Anesthesia Storage Facilities. Unless the Program Narrative Program and the official hospital board action prohibit prohibits in writing the use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in the National Fire Protection Association Standards 56A (Inhalation Anesthetics) and 56F (Nonflammable Medical Cases).

J) Anesthesia work room Workroom for cleaning, testing, and storing anesthesia equipment, containing, ---it-shall-contain a work counter and sink.

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- K) Medical Gas Storage. Space for reserve storage of nitrous oxide and oxygen cylinders shall be provided.
- L) Equipment storage rooms Storage-Room(s) for equipment and supplies used in the obstetrical suite Obstetrics-Suite.
- M) Staff Clothing Change Areas. Appropriate areas shall be provided for male and female personnel (orderlies, technicians, nurses, and doctors) working within the obstetrical suite Obstetrics-Suite. The areas shall contain lockers, showers, toilets, lavatories equipped for handwashing and space for donning scrub suits and boots. These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the obstetrical suite Obstetrical-Suite can change, shower, gown, and move directly into the obstetrical suite Obstetrical-Suite. Space for removal of scrub suits and boots shall be designed so that personnel using it will avoid physical contact with clean personnel.
- N) Stretcher Storage Area. This area shall be out of the direct line of traffic.
- O) Lounge and Toilet Facilities for Obstetrics Staff. These facilities shall be provided in hospitals having three or more delivery rooms and shall be located to permit use without leaving the obstetrics suite Obstetrics-Suite. A nurses' toilet room Nurses-Toilet-Room shall be provided near the recovery rooms Recovery-Room(s).
- P) Janitors' Closet. A closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the obstetrical suite Obstetrical-Suite.
- k) Emergency Suite. Facilities for emergency care shall be provided in each hospital. The extent of the emergency services to be provided in the hospital will depend upon community needs and availability of other organized programs for emergency services within the community. Hospitals having a Program Narrative Program calling for a minimum level of emergency services shall provide at least the facilities indicated in subsections (k)(1), (k)(4), and (k)(10) of this Section with back-up facilities within the hospital capable of furnishing the necessary support for facilities not provided in the emergency suite Emergency-Suite. Other hospitals shall provide all of the following to the degree called for in the Narrative Program Narrative:
- 1) An entrance at grade level, sheltered from the weather with provision for ambulance and pedestrian access.
 - 2) A reception and control area conveniently located near the entrance, waiting area area(s) and treatment rooms room(s).
 - 3) Public waiting space with toilet facilities, public telephone, and drinking fountain.
 - 4) Treatment Area. The treatment area treatment-area shall contain handwashing facilities trimmed with valves that which are

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- aseptically operated (i.e., knee or foot controls), general storage cabinets, medication cabinets, work counters, medical suction outlets, x-ray film illuminators, and space for storage of emergency equipment such as defibrillators, cardiac monitors, and resuscitators.
- 5) A holding area adjacent to the treatment rooms shall be provided as required by the Program Narrative Program-Narrative.
- 6) A storage area out of the line of traffic for stretchers and wheelchairs.
- 7) Staff's Work and Charting Areas. This may be combined with reception and control area or located within the treatment area.
- 8) Clean supply storage may be separate or located within the treatment area.
- 9) Soiled work room or area Workroom-or-Area containing a clinical sink, work counter, and sink equipped for handwashing, waste receptacle, and linen receptacle.
- 10) Toilet Provide-toilet facilities convenient to the treatment area shall be provided.
- 1) Outpatient Department
- 1) The outpatient department Outpatient--Department, if provided, should be located on an easily accessible floor convenient to the radiology, pharmacy, and laboratory departments Radiology, Pharmacy-and-Laboratory-Departments.
 - 2) Size will vary in different locations with the availability of other examination and diagnostic facilities, and is not necessarily proportionate to the size of the hospital. The estimated patient load will determine the number, size and scope of individual facilities in the outpatient department Outpatient Department.
 - 3) Recommended Facilities Include:
 - A) Waiting room with public toilets; Room-with-Public-Toilets
 - B) Information, appointments and records; Appointment--and Records
 - C) Medical social services; Social-Services
 - D) Examination rooms; Rooms
 - E) Dressing booths; Booths
 - F) Utility rooms; Room(s)
 - G) Storage room; and Room
 - H) Janitors' closet Closet.
 - m) Service Departments
 - 1) Dietary facilities Facilities
 - A) General. Construction, equipment, and installation shall comply with the standards specified in the Department's rules Food Service Sanitation Code (77 Ill. Adm. Code 750), and the "Food Service Sanitation Manual," P.H.S. No. 93. Food service facilities shall be designed and equipped to meet the requirements of the Program Narrative Program. These may consist of an on-site conventional food preparing

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system, a convenience food service system, or an appropriate combination of the two.

- B) Functional Elements. The following facilities shall be provided as required to implement the type of food service selected:

- i) Control Station. For receiving food supplies.
- ii) Storage Space. Adequate to provide normal and emergency supply needs including food requiring cold storage and day storage.
- iii) Food Preparation Facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary service require space and equipment for thawing, portioning, heating, cooking, and/or baking.
- iv) Handwashing Facilities ~~Facilities~~. Located in the food preparation area.
- v) Patients' Meal Service Facilities. Examples are those required for tray assembly and distribution.
- vi) Dining Space. For ambulatory patients, staff and visitors.
- vii) Ware-Washing ~~Warewashing~~ Space. Located in a room or alcove separate from food preparation and serving areas. Commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A handwashing lavatory shall be conveniently available.
- viii) Pot-Washing ~~Potwashing~~ Facilities.
- ix) Storage Areas. For cans, carts, and mobile tray conveyors.
- x) Waste Storage Facilities. Located in a separate room easily accessible to the outside for direct pickup or disposal.
- xi) Offices ~~Offices~~ or Desk Spaces. For dietitians ~~dietitians~~ and/or the dietary service manager.
- xii) Toilets accessible to the dietary staff. Handwashing facilities shall be immediately available.
- xiii) Janitors' Closet. Located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.
- xiv) Self-dispensing ice-making ~~ice-making~~ facilities.
- xv) Adequate ~~Provide-adequate~~ can, cart and mobile tray washing facilities shall be provided ~~as-required~~.

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- 2) Central Stores. The following shall be provided:

- A) Off-street unloading facilities.
- B) ~~A~~ Receiving Area ~~Area~~.
- C) General Storage Rooms. These facilities shall have storage spaces adequate to meet the needs of the hospital. They shall generally be concentrated in one area, but, in a multiple building complex, they may be in separate concentrated areas in more than one individual building.
- D) Office space ~~Space~~.
- 3) Linen Services.
 - A) On-site Processing. If linen is to be processed at the hospital site, the following shall be provided:
 - i) Soiled linen receiving, holding, and sorting room with handwashing facilities.
 - ii) Laundry processing room with commercial-type equipment that ~~which~~ can process seven days' needs within a regularly scheduled work week. Handwashing facilities shall be provided.
 - iii) Separate clean linen storage and issuing room or area.
 - iv) Clean linen inspection and mending room or area.
 - v) Storage for laundry supplies.
 - vi) Janitors' closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.
 - vii) Cart Storage.
 - viii) Office Space.
 - B) Off-site Processing. If linen is processed off the hospital site, the following shall be provided:
 - i) A soiled linen holding room with facilities for handwashing.
 - ii) A clean linen, receiving, inspection, and storage rooms.
 - iii) Cart storage ~~Storage~~.
 - iv) Office space ~~Space~~.
- 4) Facilities for Cleaning and Sanitizing Carts. Facilities shall be provided to clean and sanitize carts serving the central medical and surgical supply department, dietary facilities, and linen services. These may be centralized or departmentalized.
- 5) Employees' Facilities. In addition to the employees' facilities such as locker rooms, lounges, toilets, or shower facilities called for in certain departments, a sufficient number of such facilities as required to accommodate the needs of all personnel and volunteers shall be provided.
- 6) Janitors' Closets. In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the facility as required to maintain a clean and sanitary environment. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and

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supplies. Space ~~Space(s)~~ for large housekeeping equipment and for back-up supplies may be located in other areas.

- 7) Engineering Service and Equipment Areas. The following shall be provided:

- A) Rooms ~~Room(s)~~ or separate buildings for boilers, mechanical equipment, and electrical equipment Separate Building(s) for Boilers, Mechanical Equipment, and Electrical Equipment.
- B) Engineer's space Space.
- C) Maintenance shop ~~Shop(s)~~.
- D) Storage room for building maintenance supplies Room--for Building Maintenance Supplies.

- E) Yard Equipment Storage. A separate room or building for yard maintenance equipment and supplies may be provided.

- 8) Waste Processing Services.

- A) Storage and Disposal. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques. Proper handling and disposal of radioactive waste substances shall be provided.

- B) Incineration. A gas, electric or oil-fired incinerator shall be provided for the complete destruction of pathological and infectious waste. Infectious waste shall include, but shall not be limited to, dressings and material from open wounds, laboratory specimens, and all waste material from isolation rooms.

- i) The incinerator shall be in a separate room or placed outdoors.

- ii) Design and construction of incinerators and trash chutes shall be in accordance with NFPA Standard 824, Incinerators and Rubbish Handling.

- iii) Incinerators shall be designed and equipped to conform to requirements prescribed by air pollution regulations in the area.

- 9) Storage. In addition to the storage areas called for in certain departments of the hospital, suitable additional storage shall be provided.

(Source: Amended at 25 Ill. Reg. 324.1.1 effective 1-1-77)

Section 250.2460 Finishes

- a) Cubicle and window curtains and draperies shall be noncombustible or rendered flame retardant and shall pass both the large and small scale tests of National Fire Protection Association Standard No. 701 (1999), "Fire Tests for Flame-Resistant Textiles and Films."
- b) Flame spread and smoke developed ratings of finishes shall be in

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- c) accordance with NFPA Standard No. 101 (1994), "Life Safety Code." Floors in areas and rooms in which flammable anesthetic agents are stored or administered to patients shall comply with NFPA Standard No. 99 (1999), "Health Care Facilities Code." Conductive flooring may be omitted from emergency treatment, operating, and delivery rooms provided that a written resolution is signed by the hospital board stating that no flammable anesthetic agents will be used in these areas and provided that appropriate notices are permanently and conspicuously affixed to the wall in each such area and room.

- d) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be waterresistant and greaseproof. Joints in tile and similar material in such areas shall be resistant to food acids. Floors in toilets, baths, janitor's closets and similar areas shall be water resistant. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions.

- e) Wall bases in kitchens, operating and delivery rooms, soiled work rooms, and other areas that ~~which~~ are frequently subject to wet cleaning methods shall be made integral and covered with the floor, tightly sealed to the wall, and constructed without surface voids that can harbor vermin.

- f) All wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Walls in surgery, delivery, kitchens and in other spaces subject to frequent cleaning shall be of suitable materials.

- g) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of vermin, smoke and fire. Joints of structural elements shall be similarly sealed.

- h) Ceilings shall be cleanable and shall meet the following criteria: ~~Gettings--shall--be--cleanable--and--those--in--sensitive--areas--such--as--surgically--delivery--and--nursery--rooms--shall--be--readily--washable--and--without--devices--that--can--retain--dirt--particles--these--sensitive--areas--along--with--the--dietary--and--food--preparation--areas--shall--have--a--finished--ceiling--covering--all--overhead--duct--work--and--piping--finished--ceilings--may--be--omitted--in--mechanical--and--equipment--spaces--shops--general--storage--areas--and--similar--spaces--unless--required--for--fire--restative--purposes.~~

- 1) Those finishes in unrestricted areas such as patient rooms, corridors, office, and waiting areas are general access areas and may have non-restricted acoustical ceilings installed.

- 2) Those finishes in wet areas subject to frequent cleaning such as shower rooms and toilet rooms and dietary units shall have finishes that are smooth, sanitary, washable, and capable of withstanding treatment with harsh chemicals. The finishes must be capable of being thoroughly cleaned, including any concealed spaces that may be present.

- 3) Food preparation areas subject to frequent cleaning shall have

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finishes that are smooth, sanitary, washable, and capable of withstanding treatment with harsh chemicals.

- 4) Ceilings finishes in areas such as clean corridors, central sterile supply spaces, specialized radiographic rooms, and minor surgical procedure rooms must be smooth, scrubbable, non-absorptive, non-perforated, capable of withstanding cleaning with harsh chemicals, and without devices that can harbor mold and bacterial growth. If a lay-in ceiling is provided, it shall be designed to prevent the passage of particles from the cavity above the ceiling plane into the semi-restricted environment. Perforated, tegular, serrated, cut, or highly textured tiles are not acceptable.

- 5) Ceiling finishes in areas such as operating rooms and other rooms where open wounds are present shall be monolithic, scrubbable, and capable of withstanding harsh chemicals. Cracks or perforations in these ceilings are not allowed.

The following areas shall have acoustical ceilings:

1) Corridors in patient areas; Patient-Areas

2) Nurses' stations; Stations

3) Labor rooms; Rooms

4) Day rooms; Rooms

5) Recreation rooms; Rooms

6) Dining areas; and Areas

7) Waiting areas Areas.

(Source: Amended at 25 Ill. Reg. 302.1.1, effective 3-0-00)

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- 1) Heading of the Part: Inspection Procedures for Type I School Buses
- 2) Code Citation: 92 Ill. Adm. Code 441
- 3) Section Numbers: Adopted Action: Appendix B Amendment Appendix H Amendment
- 4) Statutory Authority: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch.12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch.13].

- 5) Effective Date of Amendments: February 20, 2001

- 6) Do these rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: November 3, 2000, 24 Ill. Reg. 16230

- 10) Has JCAR issued a Statement of Objection to these amendments? No

- 11) Differences between proposal and final version: Various grammatical changes were made throughout the Part.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

- 13) Will these amendments replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: It has come to the Department's attention, by industry request, that the Department's standards governing the front bumper required to be installed and inspected on Type I school buses (buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds) call for a front bumper that is too thick and, therefore, unsafe for some Type I school buses. While many buses covered by this Part are the standard, large-sized school buses, some covered by this Part are smaller in size. The smaller buses are commonly called "Type I-A school buses." The Type I-A school bus is one that is a conversion or that has a body that is constructed upon a van-type or cut away front-section vehicle

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with a left side driver's door, designed for carrying more than 10 passengers, and that has a GVWR of more than 10,000 pounds. Although Type I school buses are not required to be equipped with air bags, manufacturers are currently constructing Type I-A school buses that are equipped with driver side air bags. Since the Type I-A school bus is a derivative of the full body van that is required to meet the air bag standards of 49 CFR 571.208 (Occupant Crash Protection), altering the thickness of the bumper that is part of the occupant protection energy management system to meet the bumper requirements of this Part could affect the operation of the driver side air bag. In a crash situation, the school bus driver may be at risk if an air bag does not deploy. Therefore, the Department has revised Section 441.208 to provide an exception for the Type I-A school bus that allows the front bumper to meet manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag instead of meeting the requirements of this Part.

It has also come to the Department's attention that the driver's area on the Type I-A school bus is not large enough to accommodate the interior mirror currently required by Appendix H(a)(2) of this Part. Therefore, the Department has provided an exception to allow a smaller mirror in a Type I-A school bus.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the adopted amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 441

INSPECTION PROCEDURES FOR TYPE I SCHOOL BUSES

Section

441.10 Purpose and Scope
441.20 Application
441.25 Incorporation by Reference of Federal Regulations
441.30 Standards of Construction
441.40 Definitions

APPENDIX A Air Cleaner through Barrier, Guard
APPENDIX B Battery or Batteries through Bumper, Front
APPENDIX C Bumper, Rear through Drive Shaft Guard
APPENDIX D Electrical System through Fenders
APPENDIX E Filter, Oil through Frame and Body
APPENDIX F Fuel Storage and Delivery System through Horn
APPENDIX G Instruments and Instrument Panel through Locked Compartment
APPENDIX H Mirrors through Rub Rails
APPENDIX I Seat Belt, Driver's through Steps, Entrance
APPENDIX J Stop Signal Arm Panel through Trash Container (optional)
APPENDIX K Undercoating through Windshield Wipers
ILLUSTRATION A Stop Arm Panels
ILLUSTRATION B Exhaust Guidelines
ILLUSTRATION C Brake Inspection Report
ILLUSTRATION D Propane Decal
ILLUSTRATION E Driver's Pre-Trip Inspection Requirements and Sample Form (Repealed)
ILLUSTRATION F School Bus Emergency Exits

AUTHORITY: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

SOURCE: Adopted at 19 Ill. Reg. 4523, effective March 13, 1995; amended at 22 Ill. Reg. 11889, effective June 29, 1998; emergency amendment at 24 Ill. Reg. 4980, effective March 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12099, effective July 31, 2000; emergency amendment at 24 Ill. Reg. 16366, effective October 20, 2000, for a maximum of 150 days; amended at 25 Ill. Reg.

3283, effective FEB 27 2001.

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Section 441.APPENDIX B Battery or Batteries through Bumper, Front**a) BATTERY OR
BATTERIES**PROCEDURES/SPECIFICATIONS:

One or more batteries may be mounted either in engine compartment or on outside of passenger/driver area. Battery (or batteries together) in a 12 volt system shall be rated, when new, to provide the following:

Engine manufacturer's recommended Cold Cranking Current (amperes for 30 seconds) at -18 degrees C (0 degree F) or, at the purchaser's option, at -29 degrees C (-20 degrees F).

The battery(s) shall provide a Reserve Capacity (duration of 25 ampere current flow) at 27 degrees C (80 degrees F) for no less than 135 minutes.

Low rate discharge capacity of 90 ampere-hours or more (20 hour discharge test at 80 degrees F).

Exception: A bus manufactured in August 1974 or earlier may have a 70 ampere-hour battery, in a 12 volt system.

REJECT VEHICLE IF:

Battery or batteries are not securely mounted; excessively corroded; of insufficient capacity.

**b) BATTERY
CABLES**PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Cables are corroded or are not securely attached.

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**c) BATTERY
CARRIER**PROCEDURES/SPECIFICATIONS:

When the battery is mounted outside the engine compartment it shall be welded or bolted in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by a manually operated latch or other fastener. A latch or fastener must be designed in such a fashion as to keep the door closed when in the latched position. Each electrical cable connecting the battery in this carrier to the body or chassis shall be one piece between the terminal connector and the first body or chassis terminal connector.

REJECT VEHICLE IF:

Battery carrier does not meet requirements.

d) BRAKESPROCEDURES/SPECIFICATIONS:

Every motor vehicle shall be equipped with two separate means of applying the brakes and they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes. (Section 12-301(a) of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Brakes do not meet requirements.

**1) Backing
Plate**PROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Backing plate is in poor condition.

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2) Drums/
Discs

PROCEDURES/SPECIFICATIONS:

Inspect drums and/or discs for cracks or for being worn or reworked beyond the manufacturer's minimum limits.

REJECT VEHICLE IF:

Worn or reworked beyond the manufacturer's minimum limits.

3) Emergency
/Parking
Brake

PROCEDURES/SPECIFICATIONS:

Emergency/parking brake system must apply brakes to at least two wheels. (Section 12-301(a) of the Illinois Vehicle Equipment Law)

AGENCY NOTE:

Micro brakes are not considered a separate means of braking and are not acceptable.

Procedures for testing:

- 1) Apply operating control fully.
 - 2) Check actuating mechanism for release.
- Brake Performance Test:
- Using Drive-On Pad Type Tester:
- 1) Drive vehicle onto brake machine pads at 4-8 m.p.h.
 - 2) Apply emergency/parking brakes to bring vehicle to a halt. Do not lock wheels.
 - 3) Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

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- 1) Position axle with emergency brake onto roller.
- 2) Apply emergency brake but do not lock wheels.

REJECT VEHICLE IF:

Emergency/parking brake does not meet requirements.

Procedures for testing:

- 1) Not equipped with emergency/parking brakes. Operating mechanism does not hold in the applied position.
- 2) Actuating mechanism does not fully release when release control is operated properly.

Brake Performance Test:

Drive-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

Roll-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

PROCEDURES/SPECIFICATIONS:

Must be in proper adjustment. If vehicle was manufactured with a warning light, it must be visible when emergency brake is activated.

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REJECT VEHICLE IF:

Emergency brake ratchet or warning light do not meet requirements.

5) Pedal Clearance (Service Brakes)

PROCEDURES/SPECIFICATIONS:

Minimum 1 1/2 inch clearance with pedal fully depressed.

REJECT VEHICLE IF:

Pedal clearance does not meet requirements.

6) Power Systems

A) Air

i) Air Pressure

PROCEDURES/SPECIFICATIONS:

With air system fully charged (compressor governor "cut-out") run engine at low idle. Make one full (maximum) brake application and immediately record reservoir air pressure.

Apply and release brakes until pressure indicated on the air gauge is at least 10 psi (i.e, pounds per square inch) below governor "cut-in" pressure. Run engine at high idle and determine seconds required to raise reservoir pressure from recorded pressure.

REJECT VEHICLE IF:

Time required to raise air pressure from recorded to cut-out is more than 30 seconds. Air gauge is missing or does not operate.

ii) Low Pressure Warning Device

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PROCEDURES/SPECIFICATIONS:

Complete the following steps to evaluate low pressure warning device.

1) Before starting the engine, apply brakes and release until low air pressure warning device functions.

2) Start the engine.

3) Apply service brakes and release until air compressor is activated.

4) Continue to run engine until compressor cut-out pressure is reached.

5) Record compressor cut-out pressure.

6) Shut engine off.

Determine if low pressure warning device is missing or inoperative.

If located in the driver's forward field of view, the warning device can be a visual device only. If not located in the driver's front view, the device must be both audible and visible. For buses manufactured before September 1, 1974, the device can be either audible or visible.

Record the reading found on the pressure gauge at which the low pressure warning device functions.

REJECT VEHICLE IF:

Missing or inoperative low pressure warning device. Device does not meet requirements.

Low pressure warning device does not operate at 55 psi or one half cut-out pressure, whichever is less.

B) Electric/Hydraulic

PROCEDURES/SPECIFICATIONS:

Turn key to "off" position. Depress service brake

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pedal. Electric hydraulic pump must come "on" (listen).

REJECT VEHICLE IF:

Electric pump does not operate properly or is absent.

C) Hydraulic

PROCEDURES/SPECIFICATIONS:

Inspect booster belt(s), supports, tubes, hoses, connections and general condition. Clean reservoir and cover as necessary and check master cylinder fluid level. Do not contaminate fluid.

Turn key to "on" position. Warning signal must come on (look/listen). Depress brake pedal lightly. Start engine. Pedal must move downslightly (feel). Warning signal must go "off" (look/listen).

REJECT VEHICLE IF:

Belt is slack or worn; tube or hose is damaged; any part leaks or is cracked; master cylinder fluid is below manufacturer's recommended capacity.

Either booster or warning signal does not operate properly.

D) Vacuum/
HydraulicPROCEDURES/SPECIFICATIONS:

Inspect tank(s), chambers, hoses, tubes, connectors, clamps, and booster air cleaner.

Inspect supports and attachments.

With engine off, repeatedly apply service brakes until vacuum is depleted, with medium pressure on brake pedal, start engine; release brake and operate engine until maximum vacuum is established; stop engine;

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apply service brakes hard.

With brakes still applied, start engine; after one minute of running engine, check "Low Vacuum" indicator.

REJECT VEHICLE IF:

Any component is restricted, collapsed, scraped, cracked, loose, or broken. Booster air cleaner is clogged.

Any support or attachment is broken. Any connecting line or other component is not attached or supported so as to prevent damage from scraping or rubbing.

Foot pedal does not fall away from foot when engine is started; insufficient vacuum reserve to permit one full service brake application after engine is off without actuating "low vacuum" indicator; valve or diaphragm leaking.

7) Service
BrakesPROCEDURES/SPECIFICATIONS:

Must be equipped with service brakes on all wheels. (Section 12-301(a)(5) of the Illinois Vehicle Equipment Law)

Must be equipped with a "split system" on service brakes. (49 CFR 571.105)

Power-assisted service brakes are required. (49 CFR 571.105)

REJECT VEHICLE IF:

Service brakes do not meet requirements.

A) Brake
Inspection
ReportPROCEDURES/SPECIFICATIONS:

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Verify Brake Inspection Report for following (refer to Section 41.Illustration C for example of form):

- 1) Vehicle Identification Number (VIN), make and year must correspond to the bus presented for inspection.
- 2) The Brake Inspection Report must indicate the date and mileage at time the brake inspection was performed. If date is more than one year prior to time of inspection or mileage has exceeded 10,000 miles, a brake inspection must be performed.
- 3) The form must be completed with all required information. No blank lines are acceptable.

Exception: If the bus has operated less than 10,000 miles and less than 12 months have passed since the bus was manufactured, a Brake Inspection Report is not required. Write "Less than 10,000 miles and less than one year old" in the remarks section on the Vehicle Inspection Report.

REJECT VEHICLE IF:

Absent, invalid, or incomplete Brake Inspection Report.

B) Brake
Performance
Test

PROCEDURES/SPECIFICATIONS:Using Drive-On Pad Type Brake Tester:

Check vehicle's stopping ability before testing.

Drive vehicle onto brake machine pads at 4-8 m.p.h.

Apply service brakes to bring vehicle to a halt. Do not lock wheels.

e) BUMPER,
FRONT

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Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

When using roller-type tester each axle must be tested separately. Transmission must be in neutral when testing brakes on any drive axle.

Drive front axle onto rollers. Start roller motor. Apply service brakes but do not lock wheels.

Repeat the above steps for each axle.

The total braking force on a vehicle must be determined by adding the results of the test on each axle.

REJECT VEHICLE IF:Drive-On Tester:

Machine does not register a total braking force of at least 60% of the vehicle empty weight.

Computerized tester does not register a total braking force of at least 45% of the vehicle empty weight.

Roll-On Tester:

Braking forces at opposite wheels on same axle vary more than 20%.

Machine does not register a total braking force of at least 60% of the vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

PROCEDURES/SPECIFICATION:

Either channel type, formed of rolled steel at least .177 inch (4.5 mm) (approximately 3/16 inch) thick, or approved energy absorbing type.

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Buses manufactured in August 1974 or later must have 7.9 inches (200 mm) or more vertical black face.

Bumper must extend to outer edges of fenders and other front end sheet metal. Must be of strength to permit pushing vehicle of equal weight without permanent distortion.

(See CROSSING CONTROL ARM in Section 441. Appendix C for requirements.)

Exception: Buses manufactured prior to September 1974 are exempt from bumper thickness and 7.9 inch face requirement.

Exception: For buses that meet the definition of a Type I-A school bus, as defined in Section 441.40, the front bumper may meet manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag.

REJECT VEHICLE IF:

Front bumper does not meet thickness, face height and color requirements. Must be solidly attached, in good condition, free from damage and sharp edges.

(Source: Amended at 25 Ill. Reg. 12.010, effective 12/1/74)

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Section 441. APPENDIX H Mirrors through Rub Rails

a) MIRRORS

PROCEDURES/SPECIFICATIONS:

Every required mirror shall be of reflecting material protected from abrasion, scratching, and corrosion. Mirror shall be firmly installed on stable supports so as to give a clear, stable, reflected view.

Mirrors must meet all requirements of 49 CFR 571.111 to provide the required field of view.

Convex crossover mirrors can be combined with either the right or left side safety mirrors provided the convex mirror meets the field of view and size requirements established in this subsection or in 49 CFR 571.111.

REJECT VEHICLE IF:

Mirrors do not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

1) Exterior

A) Rear View Driving

PROCEDURES/SPECIFICATIONS:

Shall be mounted outside on the left and right sides of the bus. Must give seated driver a view to the rear along each side of the bus. Must be at least 50 square inches of usable flat rectangular reflecting surface on each side. (49 CFR 571.111)

If the rear view driving mirror does not provide the required field of view, a convex driving mirror must be installed to expand the driving view to the rear. However, the usable flat reflecting surface must be rectangular and must maintain at least 50 square inches.

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REJECT VEHICLE IF:

Rear view driving mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

B) Right Side Safety

PROCEDURES/SPECIFICATIONS:

An outside convex mirror, either alone or in combination with the crossover mirror system, shall give the seated driver a view of the roadway along the right side of the bus between the most forward surface of the right front tire and the rear of the rear bumper. The projected reflecting surface of this convex mirror shall be at least 40 square inches (7 1/8 inches diameter if a circle).

Extra-wide-angle convex mirror heads are permissible on right front corner only.

Exception: A right safety mirror is optional on a bus manufactured in August 1974 or earlier.

REJECT VEHICLE IF:

Right side safety mirror does not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

C) Left Side Safety (Optional)

PROCEDURES/SPECIFICATIONS:

A convex mirror is required if the left rear view driving mirror system does not give the seated driver a reflected view of the roadway along the left side of the bus between the front edge of the driver's seat (in most forward position) and the rear of the rear

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bumper. The convex mirror shall be installed so that either alone or in combination with the rear view driving mirror gives the seated driver the proper view.

Exception: A left safety mirror is optional on a bus with chassis manufactured in March 1977 or earlier.

REJECT VEHICLE IF:

Left side safety mirror does not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

D) Crossover

PROCEDURES/SPECIFICATIONS:

An outside convex mirror shall give the seated driver a view of the front bumper and the area of roadway in front of the bus. The projected reflecting surface of this mirror shall be at least 40 square inches (7 1/8 inch diameter if a circle). (49 CFR 571.111)

Exception: If the seated driver of a forward control bus has a direct view of the front bumper and the area of roadway in front of the bus, a crossover mirror is optional.

REJECT VEHICLE IF:

Crossover mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

2) Interior

PROCEDURES/SPECIFICATIONS:

Clear view safety glass mirror, minimum 6 inches x 30 inches overall; framed with rounded and padded corners and edges. It shall afford good view of

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the bus interior and portions of the roadway to the rear.

Exception: All buses manufactured prior to September 1974 are exempt from padding on the mirror.

Exception: For buses that meet the definition of a Type I-A school bus, as defined in Section 441.40, the interior mirror may meet manufacturer's specifications.

REJECT VEHICLE IF:

Interior mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

b) PAINT
REQUIREMENTSPROCEDURES/SPECIFICATIONS:

The exterior of the body, excluding the required rails, shall be painted a uniform color, National School Bus Glossy Yellow. The front and rear bumpers, required rub rails and wheels shall be black. Additional rub rails may either be painted black or yellow. Grilles and hub caps may be a bright finish (e.g., chrome, anodized aluminum, etc.). Retaining rings may be gray or aluminum. Manufacturer's name or emblem may be any color but must not interfere with required lettering, numbering, or arrows. Roofs may be white. (Section 12-801 of the Illinois Vehicle Equipment Law)

For buses manufactured on or after May 2, 1994, each opening for a required emergency exit must be outlined around its outside perimeter with a minimum 1 inch (2.54 cm.) wide yellow retroreflective tape. This wide yellow retroreflective tape must be on the exterior surface of the bus. Required yellow retroreflective tape can be located on the rear bumper provided the space between the top of

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the bumper and bottom of the door is not adequate to accommodate the tape. (49 CFR 571.217)

Optional: A white roof may extend only to within 6 inches above the drip rails on the sides of the body. The front and rear roof caps shall remain National School Bus Glossy Yellow.

Optional: Black areas around flashers are permitted, but must not interfere with "SCHOOL BUS" lettering.

Optional: ReflectORIZED tape is permitted provided it reflects the same color that it is applied to and is not located on any bumper unless the bus was manufactured on or after May 2, 1994 (see paragraph above).

Exception: Fenders on buses manufactured prior to January 1976 may be painted black. (Section 12-801 of the Illinois Vehicle Equipment Law)

Exception: Hoods may be lusterless black or lusterless school bus yellow.

REJECT VEHICLE IF:

Paint does not meet color requirements or is in poor condition (i.e., faded, peeling or rusted).

Optional black area around flashers interferes with required lettering.

Required or optional reflectORIZED tape does not meet color requirements.

c) PROJECTIONS

1) Exterior

PROCEDURE/SPECIFICATIONS:

Entire rear and bumper area of bus must be nonhitchable.

"Nonhitchable" is defined as the rear of the bus being designed and maintained to prevent

AGENCY NOTE:

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or discourage riding or grasping rear of bus so as to "hitch" rides.

REJECT VEHICLE IF:

Projections do not comply with nonhitchable requirements.

2) Interior

PROCEDURES/SPECIFICATIONS:

Interior shall be free of all dangerous projections.

Optional equipment (e.g., video camera) that is located in the bulkhead area of the bus and not flush with the interior walls must meet the following requirements:

- 1) Must not interfere with occupants entering or exiting the bus.
- 2) Must not be located in driver's head impact zone.
- 3) Must not obstruct required lettering.

Additional projections (e.g., external speakers, air conditioners) located within 59 inches from the floor shall be padded to prevent injury. This includes inner lining of ceiling and walls.
Installation of book racks is not permissible.

Exception: Buses purchased prior to September 1974 may be equipped with book racks. However, if book racks are present, they shall be above side windows and shall not extend forward of the front seat or across or above the emergency door. Racks must be free of projections likely to cause injury.

AGENCY NOTE:

See RADIO NOISE for additional requirements.

REJECT VEHICLE IF:

Optional equipment in bulkhead does not meet requirements.

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Remaining projections are not padded (e.g., external speakers). Book racks are present.

Flush mounted speakers are exempt from padding requirements.

For buses purchased prior to September 1974, book racks do not meet requirements.

PROCEDURES/SPECIFICATIONS:

Radio/stereo speakers must be located at least four feet behind the rearmost position of the driver's seat. Any speaker already located in the prohibited area must be permanently deactivated.

REJECT VEHICLE IF:

After January 1, 1999, speakers are located in a prohibited area or are not deactivated.

Two-way communication radios are allowed.

AGENCY NOTE:

e) REFLECTORS

- 1) Front

PROCEDURES/SPECIFICATIONS:

Two yellow rigid or sheet type (tape) front reflex reflectors shall be attached securely and as far forward as practicable. (Section 12-202 of the Illinois Vehicle Equipment Law) They shall be located between 15 and 60 inches above the roadway at either fender, cowl, or body and installed so as to mark the outer edge of the maximum width of the bus. No part of the required reflecting material may be obscured by a lamp, mirror, bracket, or any other portion of the bus. No part of the required reflecting material may be more than 11.8 inches (300 mm) inboard of the outer edge of the nearest rub rail (12 inches on a bus with chassis manufactured in March 1977 or earlier). The reflector may be any shape (e.g., square, rectangle, circle, oval, etc.). A rigid type reflex reflector may be any size if permanently marked either DOT, SAE A, or SAE J 594;

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otherwise, it shall display at least seven square inches of reflecting material (about 3 inch diameter if a solid circle).

A sheet type (tape) reflex reflector may conform to the surface on which it is installed but its forward projected reflecting area shall be at least eight square inches.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

2) Left Side

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

3) Right Side

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not

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located or positioned as required.

Two red reflectors on rear body within 12 inches of lower right and lower left corners. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

f) RUB RAILS

PROCEDURES/SPECIFICATIONS:

There shall be one rub rail located approximately at seat level which shall extend from the rear of the service entrance completely around the bus body without interruption, except at functioning doors or a rear engine compartment, to a point of curvature near the front of the body on the left side.

There shall be one rub rail on each side located approximately at the floor line which shall extend over the same longitudinal distance as the rub rail located at the seat level.

More than two rub rails may be installed on sides and rear of bus.

Rub rails of longitudinally corrugated or ribbed steel at least 3.9 inches (100 mm) wide shall be fixed on the outside of the bus.

Exceptions:

- 1) Rub rail need not extend across wheel housing.
- 2) Rub rail may terminate at the point of curvature at the right and left rear corners of the body.

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REJECT VEHICLE IF:

Rub rails are missing; not firmly attached;
incorrect color; or incorrect number of rails.

(Source: Amended at 25 Ill. Reg. 3288, effective _____)

PH 11/20/01

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1) Heading of the Part: Minimum Safety Standards for Construction of Type I School Buses

2) Code Citation: 92 Ill. Adm. Code 440

3) Section Numbers: 440.520
Adopted Action:
Amend

4) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch.12, Article VIII].

5) Effective Date of Amendment: February 20, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 3, 2000, 24 Ill. Reg. 16232

10) Has JCAR issued a Statement of Objection to these rulemaking? No

11) Differences between proposal and final version: Various grammatical corrections have been made throughout the Part.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: It has come to the Department's attention, by industry request, that the Department's standards governing the front bumper required to be installed and inspected on Type I school buses (buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds) call for a front bumper that is too thick and, therefore, unsafe for some Type I school buses. While many buses covered by this Part are the standard, large-sized school buses, some covered by this Part are smaller in size. The smaller buses are commonly called "Type I-A school buses." The Type I-A school bus is one that is a conversion or that has a body that is constructed upon a van-type or cut away front-section vehicle with a left side driver's door, designed for carrying more than 10

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passengers, and that has GVWR of more than 10,000 pounds. Although Type I school buses are not required to be equipped with air bags, manufacturers are currently constructing Type I-A school buses that are equipped with driver side air bags. Since the Type I-A school bus is a derivative of the full body van that is required to meet the air bag standards of 49 CFR 571.208 (Occupant Crash Protection), altering the thickness of the bumper that is part of the occupant protection energy management system to meet the bumper requirements of this Part could affect the operation of the driver side air bag. In a crash situation, the school bus driver may be at risk if an air bag does not deploy. Therefore, the Department has revised Section 440.520(c) to provide an exception for the Type I-A school bus that allows the front bumper to meet manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag instead of meeting the requirements of this Part.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the adopted amendment begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)
PART 440
MINIMUM SAFETY STANDARDS FOR CONSTRUCTION
OF TYPE I SCHOOL BUSES

SUBPART A: INTRODUCTION

Section
440.10 Order
440.20 Guidelines
440.30 Responsibilities

SUBPART B: GENERAL

Section
440.110 Purpose
440.120 Scope
440.130 Applicability
440.140 Effective Date
440.150 Quantified Requirements

SUBPART C: DEFINITIONS

Section
440.205 Dictionary Used
440.210 Federal Definitions
440.220 State Definitions

SUBPART D: CERTIFICATION

Section
440.305 Certification by Manufacturer
440.310 Federal Standards
440.320 State Standards

SUBPART E: BODY REQUIREMENTS

Section
440.405 Conformance to the Requirements
440.410 Incorporation by Reference of Federal Motor Vehicle Safety Standards
440.420 State Requirements

SUBPART F: CHASSIS REQUIREMENTS

Section

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- 440.505 Conformance to the Requirements
 440.510 Incorporation by Reference of Federal Motor Vehicle Safety Standards
 440.520 State Requirements

- ILLUSTRATION A Hexagon Shaped Stop Signal Arm (Repealed)
 ILLUSTRATION B Octagon Shaped Stop Signal Arm Panel
 APPENDIX A Federal Motor Vehicle Safety Standards (FMVSS) and Related Regulations (Repealed)
 APPENDIX B First Aid Kit Requirements (Referred to in Section 440.420(k)) (Repealed)
 APPENDIX C Specification Sheet Reflective Material -- Encapsulated Lens (Based on FHWA Notice N 5040.17, June 15, 1976) (Repealed)

AUTHORITY: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

SOURCE: Filed June 20, 1977; amended at 6 Ill. Reg. 7147, effective June 2, 1982; codified at 8 Ill. Reg. 15502; amended at 11 Ill. Reg. 15947, effective September 21, 1987; amended at 12 Ill. Reg. 8463, effective May 3, 1988; amended at 16 Ill. Reg. 1655, effective January 14, 1992; amended at 17 Ill. Reg. 3530, effective March 2, 1993; amended at 18 Ill. Reg. 14764, effective September 20, 1994; amended at 22 Ill. Reg. 19354, effective October 15, 1998; expedited correction at 23 Ill. Reg. 5918, effective October 15, 1998; emergency amendment at 24 Ill. Reg. 4993, effective March 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12111, effective July 31, 2000; emergency amendment at 24 Ill. Reg. 16391, effective October 20, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. ~~3307~~ ³³⁰⁷, effective ~~10/1/00~~ ^{10/1/00}.

SUBPART F: CHASSIS REQUIREMENTS

Section 440.520 State Requirements

Except for mirrors, which may project 152 mm (6 inch), a school bus shall not exceed 2.625 m (8 feet) in width, 4.429 m (13 feet 6 inches) in height, nor 13.78 m (42 feet) in length Sections 15-102 & 15-107, of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 15-102 and 15-107)). Exceptions to the above are shown in Section 440.420 of this Part. Various portions of the bus chassis shall conform to the requirements set forth under the following paragraphs.

- a) Air Cleaner. Unless otherwise specified by the purchaser, the engine combustion air shall pass through a dry type air cleaner equipped with a pleated paper dry element. The dry type air cleaner shall be manufactured so as to allow use of separate pleated paper dry replacement elements. The engine combustion air cleaner shall be mounted outside the passenger compartment.
- b) Battery. See Section 440.420(b) of this Part.
- c) Bumper, Front. The front bumper shall be of channel type cross

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section, shall be formed from rolled steel at least 4.5 mm (.177 inches) thick, shall have not less than a 200 mm (7.9 inches) vertical face, and shall extend to protect the outer edges of the fenders, or the body of a forward control bus. The bumper shall be of sufficient strength to permit pushing another vehicle of equal gross weight without permanent distortion. Exception: For school buses that meet the definition of a Type 1-A school bus, as defined in Section 440.220, the bumper may meet manufacturer's specifications when the Type 1-A school bus is equipped with a driver side air bag.

- d) Clutch. A bus having a manual shift transmission shall be equipped with the type and size of clutch recommended by the incomplete vehicle manufacturer for heavy duty service between the engine and transmission installed in the bus.
- e) Color and Paint. See Section 440.420(g) of this Part.
- f) Drive Shaft. A suitable guard shall be provided for each segment of the drive shaft to prevent accident or injury if the shaft breaks or becomes disconnected.
- g) Exhaust System. The term "exhaust system" includes each manifold, gasket, connector, clamp, hanger, support, muffler, chamber, pipe, tube or other component used to conduct products of combustion from each engine exhaust port to the most remote point at which such products are discharged into the atmosphere.

- 1) The exhaust system shall be outside the passenger and driver compartments. It shall be securely attached to the chassis, with provisions for accommodating expansion, contraction, and engine movements. Each gas conducting component that is not of stainless steel shall be of commercial heat and corrosion resistant exhaust system material and shall be nonflexible. The complete exhaust system shall be tightly connected and without a leak or outlet other than the opening at discharge end.
- 2) The exhaust system shall be thermally insulated or shielded from a nearby pedestrian or cyclist, except at the discharge end, and shall be shielded as necessary to prevent "hitching to". For gasoline and alternate fuel (e.g., liquid petroleum gas or compressed natural gas) powered engines, any insulated wire, flammable material, brake hose, or fuel system component containing fuel that is located within 300 mm (11.8") of an exhaust system component which conducts products of combustion shall be protected by thermal insulation, heat baffle, or other shield capable of protecting from the impingement of hot exhaust gases escaping from a deteriorated exhaust system. For diesel powered engines, the above mentioned shielding is only required if the insulated wire, flammable material, brake hose or fuel system component is within 101.6 mm (4 inches) of an exhaust system component. All other shielding requirements apply to diesel powered engines. However, inside the engine compartment the chassis manufacturer's standard governing the distance, or shielding, between exhaust manifold and brake, electric, or fuel

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system, shall prevail.

1) The discharge end, or ends, of the exhaust system shall be within 25 mm (1 inches) of the side, rear, or rear corner of the bus. The discharge shall be directed so as not to significantly impinge upon any part of the bus when the bus is stationary in calm air and so as to minimize such impingement when the bus is moving. The discharge shall not be directed toward any door or other opening into the bus body. The exhaust system shall not extend beyond a side rail, nor beyond the rear bumper. It shall not provide a step or opening for a small foot to stand on or in.

- A) A side discharge opening shall be located behind the driver compartment on the left and 1 m (39.4") or more from any type of service entrance on the right.
- B) The distance rearward from a side discharge opening to a fuel tank or other fuel containing component, or to the transverse plane through the front edge of either a side emergency door or a side body ventilating air intake, shall be 1 m (39.4") or more. However, a fuel containing component may be closer if shielding effective in preventing heating of fuel is installed.
- C) The distance between a discharge opening and a tire, or the transverse plane containing the rear vertical edge of a side emergency door, or the longitudinal plane containing any vertical edge of a rear emergency door, shall be 150 mm (5.9") or more. A discharge opening shall not be located between the planes perpendicular to an emergency door and containing the vertical edges of the closed door.
- D) Each location or distance certified in relation to a door shall apply to the closed door in its normal (travel) position.

h) Frame. See Section 440.420(w)(1) of this Part.

- 1) Generating System. The generating system may utilize either mechanical rectification (commutator type) or diode rectification (alternator type).
 - 1) The generator output shall be regulated automatically so as to provide for efficient battery charging without causing damaging potentials or currents in any part of the electrical system. Automatic means shall be provided to prevent battery discharge through the generator while the generator is not delivering current.
 - 2) The generator in a nominal 12 volt system shall be able to deliver a continuous current of 60 amperes, or more, while its automatic regulating devices are connected and functioning properly and the engine is running no faster than the speed at which it delivers its maximum net torque at the engine flywheel.
 - 3) The generator in a nominal 12 volt system shall be able to deliver a continuous current of 20 amperes, or more, while its

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automatic regulating devices are connected and functioning properly and the engine is running no faster than the curb idle speed recommended by the engine manufacturer.

- 4) The generator in a nominal voltage system higher or lower than 12 volts shall be able to deliver at least the same continuous power (watts) as indicated under subsection(i)(2) and Section 440.420(i)(3) of this Part, at the engine speeds indicated therein. NOTE: Where a bus must operate under adverse conditions such as low engine speeds, frequent periods of engine idle, and/or with high electrical load (frequent use of signals and interior lamps, high heater/defroster loads, etc.) for prolonged periods of time, the purchaser should specify a larger generator commensurate with operating conditions.

j) Horn(s).

- 1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway. (Sec. 12-601(a) of the Code.)
- 2) At least one horn shall be installed so as to conform to subsection(j)(1). The horn(s) shall be controlled conveniently by the seated driver.
- 3) A siren, whistle, or bell may not be installed to attract attention of pedestrians or drivers outside the bus (Sec. 12-601(b), of the Code). This prohibition shall not be interpreted to prohibit use of such device(s) inside the bus body to provide warning(s) to the bus driver.

k) Instruments. The bus shall be equipped with at least the following nonglare illuminated instruments and gauges mounted for easy maintenance and repair and in such a manner that each is clearly visible to the seated driver:

- 1) Ammeter, with "charge" and "discharge" indications, provisions for 100 amperes, or more, continuous current indication, and arranged so as to remain unharmed by any ammeter current flow resulting from the installed generator operating at its maximum output;
- 2) Gauge, Air Pressure or Vacuum (where air pressure or vacuum is utilized either to apply or to assist in applying the service brakes);
- 3) Gauge, Engine Coolant Temperature;
- 4) Gauge, Engine Oil Pressure;
- 5) Gauge, Fuel;
- 6) Odometer (may be combined with speedometer; may indicate kilometers traveled if such indication is shown, clearly and

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conspicuously):

- 7) Speedometer, with both miles per hour and kilometers per hour scales that are easily readable.
- l) Lamps and Signals. See Section 440.420(r) of this Part.
- m) Oil Filter. A "full flow" type engine oil filter of approximately 1 liter (1 quart) capacity shall be installed. The purchaser may specify additional "full flow" or "by-pass" type filter(s), or oil treatment device(s).
- n) Shock Absorbers. Two front and two rear double-acting shock absorbers of adequate capacity shall be installed.
- o) Spare Tire (Optional). The spare tire and rim, if supplied, shall be of the same size designation and load rating as the largest tire and rim installed on the bus. Each spare tire and rim shall be suitably mounted in an accessible location outside the passenger compartment.
- p) Springs and Suspension. Each spring and other component in any of the suspension systems shall be capable of supporting its share of the rated gross axle weight during normal operations. Where spring failure could result in total loss of control of the bus, suitable means shall be provided to make such total loss most unlikely.
- q) Steering Mechanism. Power steering is optional. The steering mechanism(s) shall provide safe and accurate performance at maximum load and speed and shall be adjustable while installed on the completed bus. After the date of manufacture of the incomplete vehicle, the steering mechanism(s) shall not be modified unless such modification is done with the concurrence of the incomplete vehicle manufacturer and in accordance with the incomplete vehicle manufacturer's instructions.
- r) Tow Hooks, Front (Optional). A front tow hook may not extend beyond the front of the front bumper. Each front tow hook not fastened securely to the chassis frame shall be connected to the frame by suitable braces.
- s) Transmission. Unless otherwise specified by the purchaser, the transmission shall be manual-shift.
 - 1) A manual-shift transmission shall provide not less than 4 forward gear ratios and 1 reverse gear ratio. A synchromesh shifting mechanism shall be provided for each forward gear ratio except for the highest ratio; i.e., "first gear" or "low gear". (Synchromesh may be specified for "first" or "reverse" gears at the purchaser's option).
 - 2) An automatic transmission may be specified by the purchaser. Such transmission shall provide not less than 3 forward gear ratios and 1 reverse gear ratio.
- t) Undercoating. The entire underside of front fenders or wheel wells shall be coated with a fire-resistant undercoating material in order to seal joints and to reduce corrosion and noise. Nonmetallic components need not be coated.
- u) Weight/Power Limitation. The ratio of the bus gross vehicle weight rating (GVWR) to the certified and published maximum net brake power

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rating of the bus engine shall not exceed 1.8 newtons per watt (300 pounds per horsepower) at the maximum engine speed (rpm) recommended by the engine manufacturer for full power operation in school bus service. NOTE: This weight/power ratio will provide for higher speeds on grades than the 400 lb/hp ratio proposed in the U.S. Government publication "House Document No. 354," August 1964, (pages 26 & 37) to assure 20 miles per hour while climbing a 3 percent grade. A purchaser who needs a bus with relatively "snappy performance" or a bus capable of maintaining relatively high speeds on relatively steep grades in rural operations should purchase a bus with a lower weight/power ratio commensurate with operating necessities.

v) Wiring. See Section 440.420(rr) of this Part.

(Source: Amended at 25 Ill. Reg. 9-4-3-1 effective

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Livestock Waste Regulations

2) Code Citation: 35 Ill. Adm. Code 506

3) Section Numbers: Proposed Action:

506.101	Amend
506.103	Amend
506.105	Repeal
506.106	Amend
506.201	Amend
506.202	Amend
506.203	Repeal
506.205	Amend
506.206	Amend
506.207	Repeal
506.208	Repeal
506.209	Repeal
506.301	Repeal
506.302	Repeal
506.303	Repeal
506.304	Repeal
506.305	Repeal
506.306	Repeal
506.307	Repeal
506.309	Repeal
506.310	Repeal
506.311	Repeal
506.312	Repeal
506.313	Repeal
506.314	Repeal
506.401	Repeal
506.501	Repeal
506.601	Repeal
506.602	Repeal
506.603	Repeal
506.604	Repeal
506.605	Repeal
506.606	Repeal
506.607	Repeal
506.608	Repeal
506.610	Repeal
506.611	Repeal
506.612	Repeal
506.613	Repeal
506.614	Repeal
506.615	Repeal
506.620	Repeal
506.701	Repeal

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

506.702	Repeal
506.703	Repeal
506.704	Repeal
Appendix A	Repeal
Illustration A	Repeal
Illustration B	Repeal

4) Date Notice of Proposed Amendments Published in the Illinois Register:
January 12, 2001 (25 Ill. Reg. 338)

5) Reason for the Withdrawal In December 2000, the Board anticipated a proposal from the Illinois Department of Agriculture that would accomplish two tasks. First, a procedural task of amending or repealing sections of the Board's rules at 35 Ill. Adm. Code 506 now superseded by the Department's rules at 8 Ill. Adm. Code 900. Second, a substantive proposal of new design and construction standards for livestock waste lagoons and non-lagoon waste handling facilities. On December 4, 2000, the Department proposed a rulemaking to the Board to address the procedural task of making Part 506 consistent with the Department's rules at 8 Ill. Adm. Code 900. At that time, the Department was not certain when the substantive proposal would be ready, so the Board proceeded to first notice on the procedural proposal (Board docket R01-18) published in the Illinois Register on January 12, 2001. On January 22, 2001, the Department filed a second proposal to address the issue of design and construction standards. The second proposal included the procedural changes in the first proposal, rendering the first proposal unnecessary and potentially confusing for the public. Therefore, the Board has filed with the Secretary of State a first-notice version of the second proposal, and hereby withdraws the first-notice proposed amendments based upon the Department's first proposal.

Questions regarding this matter may be referred to Carol Sudman at 217/524-8509.

DEPARTMENT OF PUBLIC AID

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- a) Part (Heading and Code Citation): Medical Assistance Programs (89 Ill. Adm. Code 120)

1) Rulemaking:

A) Description: Pursuant to a new State law, a Medicaid Buy-In program will be implemented for working persons with disabilities as described in section 1902(a)(10)(A)(ii)(XV) of the Social Security Act. The Department plans to propose rulemaking for this new Medicaid program for individuals with disabilities who are at least 16 years of age, but fewer than 65 years of age, and who, except for earned income, would be eligible to receive supplemental Security Income (SSI), whether or not they ever actually received SSI benefits. The Department has discretion under federal law to impose cost sharing charges on a sliding scale as an eligibility requirement for coverage. Medical coverage will be the same as benefits provided to all other Medicaid eligible persons. These changes will be implemented under the Federal Ticket to Work and Work Incentives Act of 1999.

Pursuant to existing State law, the Department will increase the income eligibility standard for medical benefits for the aged, blind and disabled to 85 percent of the Federal Poverty Level.

The Department intends to propose amendments throughout Part 120 to provide clarifications and updates regarding the assistance programs and to include the Family Assist program.

- B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

DEPARTMENT OF PUBLIC AID

JANUARY 2001 REGULATORY AGENDA

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

- G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140)

1) Rulemaking:

A) Description: The Department plans to propose rulemaking to implement the Non-Emergency Transportation Services Prior Approval Program (NETSPAP). The NETSPAP contract was competitively procured and will be effective February 1, 2001. The contractor will manage and operate the prior approval process.

The Department intends to propose rulemaking that is necessary to comply with recent changes in federal requirements under the Medicare/Medicaid and SCHIP Benefits Improvement and Protection Act of 2000. These changes will affect base rates for clinic services which will be calculated according to a two year average as reflected in cost reports.

Proposed amendments are planned for the transfer of the Hemophilia program from DHS to the Department. The Illinois Hemophilia Program pays only for Illinois residents that have financially qualified for the program. The program is a payer of last resource: after Medicare and/or private insurance, after other government agencies, and after a patient's determined participation fee, if applicable, and if the patient is not eligible for public assistance at the time of the service being billed. The Department has operated this program since July 1998.

The Department intends to implement a time limitation for submittal of Medicare/Medicaid crossover claims. Proposed rulemaking will require providers to submit a Medicare/Medicaid crossover claim on a timely basis in accordance with federal regulations. Currently there is no such constraint.

Proposed amendments will be filed on specific record keeping requirements for medical transportation providers that are consistent with current requirements set forth in the Department's Transportation Provider Handbook. Studies by the Office of Inspector General have identified medical transportation as the

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most error prone provider class enrolled in the Medical Assistance program.

In accordance with Public Act 91-0799, the Department will propose amendments on payment for appropriate services, including assessment, care planning, discharge planning and treatment, that are provided by nursing facilities for residents who have a serious mental illness.

The Department also plans to establish a demonstration project for nursing facilities, which primarily serve persons with severe mental illness, to better manage the admissions of such persons.

Proposed amendments are planned regarding the In-Home Care Program to reflect a more complete list of programs, including the University of Illinois Chicago Division of Specialized Services for Children (medically fragile, technology dependent children), and to provide updates on current agency names.

The Department intends to update the rules concerning waiver programs to reflect that the two Home and Community Based Services (HCBS) waivers, Model Waiver I and Model Waiver II, have been combined under one waiver. The Department has also determined that the rules should be amended to include personal assistance services in the HCBS waivers for medically fragile, technology dependent, disabled persons under age 21 years, to provide a more consistent service level within the children's waiver and the physical disabilities waiver for persons up to age 59 years. Because the children's waiver does not currently have personal assistance services, transition to the physical disabilities waiver after the age of 21 years is difficult. Addition of personal assistance services into the children's waiver will allow a smoother transition into adulthood and increased independence for waiver participants.

The Department anticipates rulemaking to delete the date when physician certification requirements are met as an option for initiating Medicaid payments for long term care. Although the date of the physician certification will not be used to begin long term care payment, the completion of a physician certification will be required prior to authorization of Medicaid payment pursuant to federal regulations (42 CFR 456.360).

The Department plans to review all rules regarding cost reporting requirements and allowable costs for long term care facilities. These rules will be updated and clarified as appropriate. The Department does not plan to implement significant changes in policy.

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The Department anticipates rulemaking as a result of Public Law 104-315 that deleted annual resident review as a federal requirement.

As one of the final steps under Public Act 87-996 in the transfer of responsibility to DHS for administering programs for persons with developmental disabilities (including Medicaid funded intermediate care facilities (ICF/MR)), DHS will adopt its own rules relating to ICF/MR facility services and responsibilities. Rules relating to ICF/MR facilities currently under the Department will be amended accordingly.

Amendments to clarify the coverage of private automobiles as a means of transportation to a medical service are planned by the Department. Current rules do not provide any criteria for enrolling private automobiles as providers of service. The Department will propose that reimbursement for transportation by private automobiles should be limited to continuous services or a chronic medical condition rather than an occasional appointment.

The Department plans amendments to continue phased in implementation of the Recipient Eligibility Verification system by incorporating technological enhancements into REV to improve medical provider response to the system.

The Department plans to propose rulemaking to amend the current provisions on audits to allow vendors 45 days to respond to audit findings, to allow additional documentation for reaudit and to provide that only one reaudit will be conducted. If a response is not received, the matter will be referred for administrative hearing to recover the amounts sought.

The Department plans to establish in rule the current policy regarding prohibited marketing activities, the Department's responsibility for approving marketing plans and the process for the registration, credentialing, rejection, termination and reinstatement of marketing representatives. Certain marketing activities are prohibited by State and federal law. These activities include unsolicited door-to-door or "cold call" marketing and marketing at Department offices or offices of the Department of Human Services.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

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D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)

1) Rulemaking:

A) Description: The Department intends to amend provisions relating to intermediate care facilities for persons with developmental disabilities (ICF/MR). As one of the final steps under Public Act 87-996 in the transfer of responsibility to DHS for administering programs for persons with developmental disabilities (including Medicaid funded ICFs/MR), DHS will adopt its own rules relating to ICF/MR services and responsibilities. Rules relating to ICF/MR facilities currently under the Department will be amended accordingly.

The Department plans to repeal Sections 147.300 through 147.345 and new Sections will be proposed regarding reimbursement for nursing facilities. Proposed changes pertaining to program costs associated with the delivery of psychiatric rehabilitation services to residents with mental illness, will maintain rates at the level in effect on January 1, 2001, except as may otherwise be provided at 305 ILCS 5/5-5.4 and 89 Ill. Adm. Code 153. Other proposed changes will specify that payment for services provided by nursing facilities for residents having a primary diagnosis of

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mental illness will be dependent upon the facility meeting all applicable requirements of the Nursing Home Care Act and the Department of Public Health's licensure rules.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not for profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Hospital Services (89 Ill. Adm. Code 148)

1) Rulemaking:

A) Description: The Department intends to add provisions to the rules regarding outpatient bone marrow transplantation. The center must meet all criteria listed at 89 Ill. Adm. Code 148.82 for an inpatient bone marrow transplant center before applying for certification as an outpatient center. The rules pertaining to organ transplants will be modified to allow for inpatient and outpatient stem cell transplants.

Amendments will be proposed for the transfer of the Chronic Renal

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Diseases Program from DHS to the Department. The Chronic Renal Disease Program assists patients who have not qualified for Public Aid benefits and is supplementary to all other resources, including Medicare, private insurance and private income. The Department has operated this program since July 1998.

Amendments will also be proposed for the transfer the Sexual Assault Survivors Emergency Treatment Program from DHS to the Department. The purpose of the Illinois Sexual Assault Survivors Emergency Treatment Act is to reimburse certified Illinois transfer centers or treatment hospitals for outpatient emergency room services to alleged sexual assault survivors who are not covered by private insurance and are not eligible for Medicaid. The Department took over this program in July 1998.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

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Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 Ill. Adm. Code 149)

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1) Rulemaking:

A) Description: Proposed amendments are planned for the elimination of the attestation requirements. Coding attestation requirements, which began with hospital admissions on or after March 1, 1997, require the Health Information Management Director (Medical Records) to attest to the principal and secondary diagnoses and major procedures performed as indicated in the medical record. The Department will no longer require attestations for all inpatient DRG reimbursed admissions for cost reporting hospitals.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Child Support Enforcement (89 Ill. Adm. Code 160)

1) Rulemaking:

A) Description: The Department plans to revise provisions on the

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establishment of voluntary paternity. When the Department first began establishing paternity administratively, the voluntary paternity acknowledgment process currently found in the Vital Records Act had not yet been passed by the General Assembly. However, after it became law, the Department adopted it for purposes of acknowledgments under the administrative paternity process. The Vital Records process requires that where a presumed father exists (i.e., a husband), a mother and an alleged father cannot complete an acknowledgment of paternity unless the presumed father signs the document denying his paternity of the child. When rule revisions were made, the provision allowing acknowledgment without a signed denial by the presumed father was not changed to comply with Vital Records requirements. The Department plans to add the necessary changes to the administrative rules pertaining to voluntary acknowledgment of paternity.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/12-13)

C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

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Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 13, 2001 through February 20, 2001 and have been scheduled for review by the Committee at its March 20, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/29/01	Department of Insurance, Pre-Licensing and Continuing Education (50 Ill Adm Code 3119)	10/27/00 24 Ill Reg 15496	3/20/01
3/30/01	Department of Human Services, Partner Abuse Intervention (89 Ill Adm Code 501)	11/27/00 24 Ill Reg 17436	3/20/01
3/30/01	Department of Public Health, Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill Adm Code 350)	11/27/00 24 Ill Reg 17448	3/20/01
4/5/01	Department of Public Aid, Practice in Administrative Hearings (89 Ill Adm Code 104)	11/3/00 24 Ill Reg 16209	3/20/01

